

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
 ■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM 1

Date: August 4, 2010

Subject: Information Relative to Possible Conflict of Interest

Recommendation*: Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

Background: In accordance with California Government Code 84308, members of the SANBAG Board may not participate in any action concerning a contract where they have received a campaign contribution of more than \$250 in the prior twelve months from an entity or individual, except for the initial award of a competitively bid public works contract. This agenda contains recommendations for action relative to the following contractors:

Item No.	Contract No.	Principals & Agents	Subcontractors
6	C09094	Highland Ave Community Church John Watkin	None
7	C10122	Ryder Truck Rental, Inc. Greg Swienton	None
9	C05016-08	Best Best & Krieger, LLP Steven DeBaun	None

*Approved
 Board of Directors*

Date: August 4, 2010

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

10	C11021	Burlington Northern Santa Fe Railroad (BNSF) <i>Dean Wise</i>	None
10	C11021	Union Pacific Railroad (UPRR) <i>Dennis Duffy</i>	None
11	C10180	TRC Solutions, Inc. <i>Ayman Salama</i>	Earth Mechanics, Inc. <i>Lino Cheang</i> LDP <i>Brent Praegitzer</i> Psomas <i>Craig Gooch</i>
12	C08013-01	LAN Engineering/ AECOM Technical Services, Inc. <i>Mario Montes</i>	Arellano Associates <i>Genoveva Arellano</i> LSA <i>Lyn Calerdine</i> Stantec <i>Anne Perez</i> PB Americas/ Associated Engineers <i>Jim Imborski</i> Earth Mechanics, Inc. <i>Lino Cheang</i> Iteris <i>Leon Ward</i>
13	C07024-02	Harris & Associates <i>David Seevers</i>	C.H.J. Incorporated <i>Allen D. Evans</i> PB Americas/ Associated Engineers <i>Jim Imborski</i> Wilson & Company <i>Larry G. Long</i>

Financial Impact: This item has no direct impact on the SANBAG budget.

Reviewed By: This item is prepared monthly for review by SANBAG Board and Committee members.

BOARD OF DIRECTORS ATTENDANCE RECORD - 2010

XName	Jan	Special Jan 20 Mtg.	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Gary Ovitt Board of Supervisors	X		X	X	X	X	X						
Brad Mitzelfelt Board of Supervisors	X	X	X		X	X	X	X					
Paul Biane Board of Supervisors	X	X	X	X		X		X					
Josie Gonzales Board of Supervisors	X	X	X	X	X	X	X	X					
Neil Derry Board of Supervisors	X	X	X	X	X	X	X	X					
Charley Glasper City of Adelanto	X	X	X	X	X	X	X	X					
Rick Roelle Town of Apple Valley	X	X	X	X	X	X		X					
Julie McIntyre City of Barstow	X	X	X	X	X	X	X	X					
Bill Jahn City of Big Bear Lake	X		X	X	X		X	X					
Dennis Yates City of Chino	X		X	X	X	X	X	X					
Gwenn Norton-Perry City of Chino Hills	X												
Ed Graham City of Chino Hills		X	X	X	X	X	X	X					
Kelly Chastain City of Colton	X	X	X	X	X	X	X	X					
Mark Nuaimi City of Fontana	X	X	X		X	X	X	*					
Bea Cortes City of Grand Terrace	X	X	X	X	X	X	X	X					

X = member attended meeting. * = alternate member attended meeting. Empty box = Did not attend meeting. Crossed out box = not a Board Member at the time.

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BOARD OF DIRECTORS ATTENDANCE RECORD - 2010

XName	Jan	Special Jan 20 Mtg.	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Mike Leonard City of Hesperia	X	X	X	X	X	X	X						
Larry McCallon City of Highland	X	X	X	X	X	X	X						
Rhodes 'Dusty' Rigsby City of Loma Linda	X	X	X	X	X	X	X	X					
Paul Eaton City of Montclair	X	X	X	X	X	X	X	*					
Jeff Williams City of Needles	X		X	X	X	X	X	X					
Alan Wapner City of Ontario	X	X	X	X	X	X	X	X					
Diane Williams City of Rancho Cucamonga	X		X	X	X	X	X	X					
Pat Gilbreath City of Redlands	X		X	X	X	X	X	X					
Ed Scott City of Rialto	X	X	X	X	X	X	X	X					
Patrick Morris City of San Bernardino	X	X	X	X	X	X	X	X					
Jim Harris City of Twentynine Palms	X	X	X	X	X	X	X	X					
John Pomierski City of Upland	X	X	X	X	X	X	X	X					
Ryan McEachron City of Victorville	X		X	X	X	X	X	X					
Dick Riddell City of Yucaipa	X	X	X	X	X	X	X	X					
William Neeb Town of Yucca Valley	X	X	X	X	X	X	X	*					
Ray Wolfe Ex-Official Member	X		X	X	Syed Raza	X	X	X					

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brdatt10

BOARD OF DIRECTORS ATTENDANCE RECORD - 2009

Name	Jan	Feb	March	April	May	Special May 20 Mtg	June	July	Aug	Sept	Oct	Nov	Dec
Gary Ovitt Board of Supervisors	X	X		X	X	X	X	X		X	X	X	X
Brad Mitzelfelt Board of Supervisors	X			X	X		X	X	X	X	X	X	X
Paul Biane Board of Supervisors	X		X	X			X	X	X		X	X	X
Josie Gonzales Board of Supervisors	X	X	X	X	X		X		X	X	X	X	X
Neil Derry Board of Supervisors		X	X	X	X	X	X	X	X		X	X	X
Charley Glasper City of Adelanto	X	X	X	X	X		X	X	X	X	X	X	X
Rick Roelle Town of Apple Valley	X	X	X	X	X	X	X	X	X	X	X	X	X
Julie McIntyre City of Barstow	X	X	X	X	X		X	X		X		X	X
Bill Jahn City of Big Bear Lake	X	X	X	X	X	X	X	X	X	X	X	X	X
Dennis Yates City of Chino	X	X	X	X	X	X	X	X	X		X	X	X
Gwenn Norton-Perry City of Chino Hills		X	X	X	X			X	X		X	X	X
Kelly Chastain City of Colton	X	X	X	X	X	X	X	X	X	X	X	X	X
Mark Nuaimi City of Fontana	X	X	X	X	X	X	X	X	X	X	X	X	X
Bea Cortes City of Grand Terrace	*	X	X	X	X	X	X	X	X		X	X	X
Mike Leonard City of Hesperia	X	X		X	X		X	X	X		X		X

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BOARD OF DIRECTORS ATTENDANCE RECORD - 2009

Name	Jan	Feb	March	April	May	Special May 20 Mtg	June	July	Aug	Sept	Oct	Nov	Dec
Larry McCallon City of Highland	X	X	X	X	X	X	X	X	*	X	X	X	X
Rhodes 'Dusty' Rigsby City of Loma Linda	X	X	X	X	X	X	X	X		X	X	X	X
Paul Eaton City of Montclair	X	X	X	X	*		X	X	X	X	X	X	X
Jeff Williams City of Needles	X	X		X	X		X	X	X	X		X	
Alan Wapner City of Ontario	X	X	X	*	X		X	X	X	X	X	X	X
Diane Williams City of Rancho Cucamonga	X	X	X	X	X	X	X	X	X	X	X		X
Pat Gilbreath City of Redlands	X	X	X	X	X	X	X	X	X	X	X	X	X
Grace Vargas City of Rialto	*	X	X	X	X	X	X	X	X	X	X	X	X
Ed Scott City of Rialto	X	X	X	X	X		X	*	X	X	X	X	X
Patrick Morris City of San Bernardino	X	X	X	X	X		X	X	X	X	X	X	X
Jim Harris City of Twentynine Palms	X	X	X	X	X	X	X	X	X	X	X	X	X
John Pomierski City of Upland	X	X	X		X	X	X	X	X			X	X
Ryan McEachron City of Victorville	X	X	X	X	X	X	X	*	X	X	X	X	X
Dick Riddell City of Yucaipa	X	X	X	X	X	X	X	X	X	X	X	X	X
William Neeb Town of Yucca Valley	X	X	X	X	X	X	X	X	X	X	X		X
Ray Wolfe Ex-Official Member	Jesus Galvan	X	X	X	Basem Muallem		Basem Muallem	X	X	X	X	X	X

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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 3

Date: August 4, 2010

Subject: June 2010 Procurement Report

Recommendation:* Receive Monthly Procurement Report

Background: The Board of Directors approved the Contracting and Procurement Policy (Policy No. 11000) on January 3, 1997. The Executive Director, or designee, is authorized to approve Purchase Orders up to an amount of \$50,000. All procurements for supplies and services approved by the Executive Director, or designee, in excess of \$5,000 shall be routinely reported to the Administrative Committee and to the Board of Directors.

Attached are the purchase orders in excess of \$5,000 to be reported to the Board of Directors for the month of June 2010.

Financial Impact: This item imposes no impact on the FY 2009/2010 or the FY 2010/2011 Budget. Presentation of the monthly procurement report will demonstrate compliance with the Contracting and Procurement Policy (Policy No. 11000).

Reviewed By: This item was reviewed and received by the Administrative Committee on July 14, 2010.

Responsible Staff: William Stawarski, Chief Financial Officer

Approved
Board of Directors

Date: _____

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

X	COG	X	CTC	X	CTA	X	SAFE	X	CMA
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Check all that apply

BRD1008a-cac

ISF10

June 2010 Report of Purchase Orders

PO No.	PO Issue Date	Vendor	Purpose	Amount \$
RCMS #				
EDEN #				
P10258 40000358	05/13/10	Kathleen Murphy-Perez	Contract Management Professional Services. Sole Source Justification – unique qualifications and demonstrated experience.	\$25,000.00
P10259 40000359	05/18/10	Padilla & Associates, Inc.	SANBAG AADPL Goal 2010/11 Sole Source – Time constraints. Exhibits 9A and 9B needed to be delivered to Caltrans by 06/01/10.	\$8,470.00
P10266 40000362	06/09/10	TH Enterprises, Inc.	Purchase network workstations.	\$6,170.00
*Note: Sole Source justification is noted in the Purpose statement, if applicable.				Total \$ \$39,640.00

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
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Minute Action

AGENDA ITEM: 4

Date: August 4, 2010

Subject: Appropriations Limitation for Fiscal Year 2010/2011

Recommendation:* Adopt Resolution 11-003 to establish an appropriations limit at \$872,799,682.

Background: Article XIIB of the California Constitution specifies that the appropriations limit of state and local governments may increase annually by a factor comprised of the change in population combined with the change in California per capita personal income.

In accordance with the above mentioned requirements, Resolution 11-003 has been prepared and is attached for review and adoption. The Ordinance 89-1 (Measure I) established the original SANBAG appropriations limit of \$250,000,000. The California Department of Finance provides the percentage change over prior year for the per capita personal income and the annual percentage change in population. This factor, multiplied by the approved prior year appropriations limit, establishes the fiscal year 2010/2011 appropriations limit at \$872,799,682. The annual establishment of an appropriations limitation excludes federal grant funds.

The previous limit, as approved by the Board of Directors was \$888,002,281. Resolution 11-003 adjusts the limit to \$872,799,682. The decrease from the prior year is due to a 2.54% decrease in per capita personal income over the prior year.

*Approved
Board of Directors*

Date: _____

Moved: _____ *Second:* _____

In Favor: _____ *Opposed:* _____ *Abstained:* _____

Witnessed: _____

X	COG	X	CTC	X	CTA	X	SAFE	X	CMA
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Check all that apply
 BRD1008b-cac
 Attachment:
 RES11-003

Financial Impact: This item poses no financial impact. The 2010/2011 adopted budget, with associated amendments, is well below the proposed appropriations limit.

Reviewed By: This item was reviewed by the Administrative Committee on July 14, 2010 and unanimously recommended for approval.

Responsible Staff: William Stawarski, Chief Financial Officer

RESOLUTION NO. 11-003

**RESOLUTION
ESTABLISHING APPROPRIATIONS LIMIT FOR
FISCAL YEAR 2010/2011**

WHEREAS, Article XIII B of the California Constitution and Sections 7900 through 7913 of the California Government Code require the establishment of an appropriations limit; and

WHEREAS, appropriations limits are applicable to funds received from the proceeds of taxes and interest earned on such proceeds.

NOW, THEREFORE, BE IT RESOLVED, that the San Bernardino County Transportation Authority hereby determines that pursuant to Section 7902(b) of the California Government Code, the appropriations limit for San Bernardino County Transportation Authority for Fiscal Year 2010/2011 is determined to be \$872,799,682.

Approved by the Board of Directors of the San Bernardino County Transportation Commission at a regular meeting thereof held this 4th day of August 2010.

*Approved
Board of Directors*

Date: _____

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
 ■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 5

Date: August 4, 2010

Subject: SANBAG Disadvantaged Business Enterprises (DBE) Program and Goal Setting

Recommendation:* Approve the Overall Annual DBE Goals for Federal Fiscal Year 2010/2011 – Exhibit 9-B (Attachment 1)

Background: Pursuant to the Code of Federal Regulations (CFR), 49, Part 26, Section 26.45, *Participation by Disadvantaged Business Enterprises in Department of Transportation Programs*, Caltrans requires the annual submission of Exhibit 9-B which establishes the local agency overall Disadvantaged Business Enterprise goal for federally assisted highway projects. The overall goal is a combination of the race-conscious and race-neutral measures.

No request for authorization (RFA) will be processed after October 1, 2010 without an approved Exhibit 9-B on file with the Caltrans District Local Assistance Engineer.

In addition, effective May 28, 2010, Local Agencies are no longer required to submit an Annual Anticipated Disadvantaged Business Enterprise Participation Level (AADPL) each year. However, race-neutral measures and contract goals, narrowly tailored to our market area, are still required. Local Agencies may still use the methodology described in 49 CFR Part 26, Section 26.45, to calculate specific contract goals. This is the method that SANBAG will continue to follow until Caltrans' issues another format for reporting.

*Approved
 Board of Directors*

Date: _____

Moved: _____ *Second:* _____

In Favor: _____ *Opposed:* _____ *Abstained:* _____

Witnessed: _____

X	COG		CTC		CTA		SAFE		CMA
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Check all that apply

BRD1008a-dab

Attachments:

BRD1008a1-dab

BRD1008a2-dab

In accordance with these DBE regulations, SANBAG has developed a Final DBE Program and established Overall Annual DBE Goal for Federal Fiscal Year 2010/2011 to ensure full compliance with relevant regulatory requirements. Attached is a copy of SANBAG's Exhibit 9-A, Disadvantaged Business Implementation Agreement for Local Agencies. This document was last revised and submitted to Caltrans in June 2009. (Attachment 2)

The DBE Program and Established Overall Annual DBE Goal of 11.45% for FFY 2010/2011 DOT assisted contracts addresses critical components and fulfills specific requirements for narrow tailoring in accordance with Title 49 CFR Part 26. The two components of the goal are 5.52% race-neutral (DBE) and 5.93% race-conscious (Underutilized Disadvantaged Business Enterprise/UDBE).

SANBAG's Established Overall Annual DBE Goal was developed utilizing the federal prescribed two-step goal setting methodology. This included establishing a Base Figure utilizing quantifiable evidence to determine the relative availability of DBEs within specified industries identified as a part of SANBAG's DOT assisted contracting projects anticipated to be awarded by SANBAG within FFY 2010/2011. SANBAG utilized the Caltrans Directory of Certified DBE firms and the Census Bureau County Business Patterns database to complete this step. Upon establishing the Base Figure, SANBAG surveyed and assessed other known relevant evidence to determine what additional adjustments, if any, were needed to narrowly tailor the Base Figure to SANBAG's market area. Factors considered in the adjustment of the Base Figure included the historical and current capacity of DBEs measured by actual attainments on similar projects.

Following approval of the final DBE Program and Established Overall Annual Goal for FFY 2010/2011, staff will submit Exhibit 9-B to Caltrans for their final review.

Financial Impact: This item has no direct impact on the adopted SANBAG Budget. Staff activities associated with this item are consistent with the adopted SANBAG Budget, Task No. ISF11. Board adoption of the Established Overall Annual DBE Goal for FFY 2010/2011 is required to ensure compliance with Department of Transportation's federal funding requirements, provisions and financial responsibilities. Failure to do so will directly jeopardize SANBAG's federal financial assistance.

Reviewed By: This item was approved by the Administrative Committee on July 14, 2010.

Responsible Staff: Duane A. Baker, Director of Management Services

BRD1008a--dab
Attachments:
BRD1008a1-dab
BRD1008a2-dab

**Exhibit 9-A Disadvantaged Business Enterprise Implementation Agreement for Local
Agencies**

**CALIFORNIA
DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE
PROGRAM
IMPLEMENTATION AGREEMENT
FOR
SAN BERNARDINO ASSOCIATED GOVERNMENTS**

CALIFORNIA DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE IMPLEMENTATION AGREEMENT

For the San Bernardino Associated Governments (SANBAG), hereinafter referred to as "RECIPIENT."

I Definition of Terms

The terms used in this agreement have the meanings defined in 49 CFR § 26.5.

II OBJECTIVE/POLICY STATEMENT (§26/1. 26/23)

The RECIPIENT intends to receive federal financial assistance from the U. S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the RECIPIENT will sign the California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement (hereinafter referred to as Agreement). The RECIPIENT agrees to implement the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan (hereinafter referred to as the DBE Program Plan) as it pertains to local agencies. The DBE Program Plan is based on U.S. Department of Transportation (DOT), 49 CFR, Part 26 requirements.

It is the policy of the RECIPIENT to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also their policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
- To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts.
- To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in DOT-assisted contracts.
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

III Nondiscrimination (§26.7)

RECIPIENT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, Part 26 on the basis of race, color, sex, or national origin. In administering the local agency components of the DBE Program Plan, the RECIPIENT will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

IV Annual DBE Submittal Form (§26.21)

The RECIPIENT will provide to the Caltrans District Local Assistance Engineer (DLAE) a completed *Local Agency DBE Annual Submittal Form* (Exhibit 9-B) by June 1 of each year for the following Federal Fiscal Year (FFY). This form includes an Annual Anticipated DBE Participation Level (AADPL), methodology for establishing the AADPL, the name, phone number, and electronic mailing address of the designated DBELO, and the choice of Prompt Pay Provision to be used by the RECIPIENT for the following FFY.

V Race-Neutral Means of Meeting the Overall Statewide Annual DBE Goal (§26.51)

RECIPIENT must meet the maximum feasible portion of its AADPL by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

VI Race Conscious Means of Meeting the Overall Statewide Annual DBE Goal (§26.51(d))

RECIPIENT must establish contract goals for Underutilized Disadvantaged Business Enterprises (UDBEs) to meet any portion of your AADPL you do not project being able to meet using race-neutral means. UDBEs are limited to these certified DBEs that are owned and controlled by African Americans, Native Americans, Women, and Asian Pacific Americans.

VII Quotas (§26.43)

RECIPIENT will not use quotas or set-asides in any way in the administration of the local agency component of the DBE Program Plan.

VIII DBE Liaison Officer (DBELO) (§26.25)

RECIPIENT has designated a DBE Liaison Officer. The DBELO is responsible for implementing the DBE Program Plan, as it pertains to the RECIPIENT, and ensures that the RECIPIENT is fully and properly advised concerning DBE Program Plan matters. The DBELO has a support staff of two support personnel who devote a portion of their time to the program. The name, address, telephone number, electronic mail address, and an organization chart displaying the DBELO's position in the organization are found in Attachment A to this Agreement. This information will be updated annually and included on the DBE Annual Submittal Form.

The DBELO is responsible for developing, implementing, and monitoring the RECIPIENT's requirements of the DBE Program Plan in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to determine projected Annual Anticipated DBE Participation Level.
4. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Analyzes DBE participation and identifies ways to encourage participation through race-neutral means.
6. Participates in pre-bid meetings.
7. Advises the CEO/governing body on DBE matters and DBE race-neutral issues.
8. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

B. PROMPT PAYMENT

Prompt Progress Payment to Subcontractors

The local agency shall require contractors and subcontractors to be timely paid as set forth in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10-days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Prompt Payment of Withheld Funds to Subcontractors

The local agency shall ensure prompt and full payment of retainage from the prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed and accepted. This shall be accompanied by including either (1), (2), or (3) of the following provisions [local agency equivalent will need Caltrans approval] in their federal-aid contracts to ensure prompt and full payment of retainage [withheld funds] to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
2. No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

XIII Local Assistance Procedures Manual

The RECIPIENT will advertise, award and administer DOT-assisted contracts in accordance with the most current published Local Assistance Procedures Manual (LAPM).

XIV Transit Vehicle Manufacturers (§ 26.49)

If FTA-assisted contracts will include transit vehicle procurements, RECIPIENT will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49.

XV Bidders List (§26.11(c))

The RECIPIENT will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted contracts. The bidders list will include the name, address, DBE/nonDBE status, age, and annual gross receipts of the firm.

XVI Reporting to the DLAE

RECIPIENT will promptly submit a copy of the Local Agency Bidder/Proposer-UDBE Commitment (Consultant Contract), (Exhibit 10-O(1) "Local Agency Bidder/Proposer-DBE Commitment (Consultant Contract)") or Exhibit 15-G(1) "Local Agency Bidder-UDBE Commitment (Construction Contract) to the DLAE at the time of award of the consultant or construction contracts.

RECIPIENT will promptly submit a copy of the Local Agency Bidder-DBE Information (Exhibit 15-G(2) "Local Agency Bidder-DBE (Construction Contracts) - Information" or Exhibit 10-O(2) "Local Agency Proposer/Bidder-DBE (Consultant Contracts)-Information" of the LAPM) to the DLAE at the time of execution of consultant or construction contract.

RECIPIENT will promptly submit a copy of the Final Utilization of DBE participation to the DLAE using Exhibit 17-F "Final Report - Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" of the LAPM immediately upon completion of the contract for each consultant or construction contract.

IX Federal Financial Assistance Agreement Assurance (§26.13)

RECIPIENT will sign the following assurance, applicable to and to be included in all DOT-assisted contracts and their administration, as part of the program supplement agreement for each project.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR, Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.). [Note – this language is to be used verbatim, as it is stated in §26.13(a).]

X DBE Financial Institutions (§26.27)

It is the policy of the RECIPIENT to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBELO. The Caltrans' Disadvantaged Business Enterprise Program may offer assistance to the DBELO.

XI Directory (§26.31)

RECIPIENT will refer interested persons to the Unified Certification Program DBE directory available from the Caltrans Disadvantaged Business Enterprise Program's website at www.dot.ca.gov/hq/bep.

XII Required Contract Clauses (§§26.13, 26.29)

RECIPIENT ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

A. CONTRACT ASSURANCE

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

[Note – This language is to be used verbatim, as is stated in §26.13(b). See Caltrans Sample Boiler Plate Contract Documents on the Internet at www.dot.ca.gov/hq/LocalPrograms under "Publications."]

XVII Certification (§26.83(a))

RECIPIENT ensures that only DBE firms currently certified by the California Unified Certification Program will participate as DBEs on DOT-assisted contracts.

XVIII Confidentiality

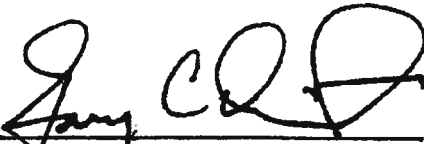
RECIPIENT will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information consistent with federal, state, and local laws.

This California Department of Transportation's Disadvantaged Business Enterprise Program Implementation Agreement is accepted by:

**SAN BERNARDINO
ASSOCIATED GOVERNMENTS**

CALTRANS

By: _____


Gary C. Ovin
President
SANBAG Board of Directors

By: _____


Patrick Hally, DLAE
CALTRANS

Date: _____

5/6/09

Date: _____

6/1/09

APPROVED AS TO FORM:

By: _____


Jean Rene Basle
SANBAG Counsel

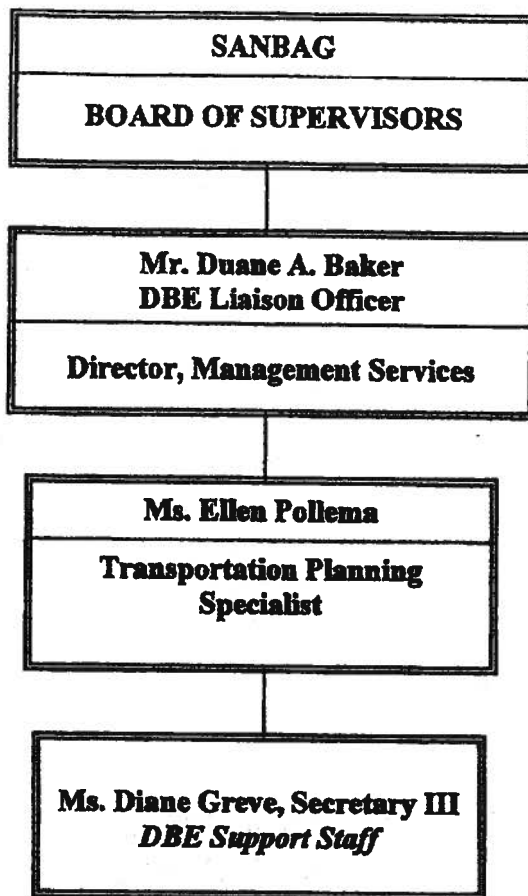
5/6/09

Distribution: (1) Original - DLAE
(2) Signed copy by the DLAE - Local Agency

(Updated: March 4, 2009)



**SAN BERNARDINO ASSOCIATED
GOVERNMENTS (SANBAG)
DISADVANTAGED BUSINESS
ENTERPRISE (DBE) PROGRAM
ORGANIZATIONAL CHART**



DBE Liaison Officer Contact Information:

**Ms. Deborah Robinson Barmack
San Bernardino Associated Governments (SANBAG)
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715**

Phone: (909) 884-8276 Fax: (909) 885-4407 E-Mail: dbarmack@sanbag.ca.gov

SANBAG
ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL)
METHODOLOGY FOR
FEDERAL FISCAL YEAR 2010/11

(Covering the period of October 1, 2010 through September 30, 2011)

I. INTRODUCTION

SANBAG herein sets forth its Annual Anticipated DBE Participation Level (AADPL) and corresponding methodology for Federal Fiscal Year (FFY) 2010/11. The AADPL submitted for consideration includes Race-Neutral and Race-Conscious projections on how SANBAG anticipates achieving its AADPL. The Race-Conscious component of SANBAG's DBE program is limited to the four (4) Underutilized Disadvantaged Business Enterprise (UDBE) groups (African American, Asian Pacific, Native American and Women), in conformance with Title 49 CFR Part 26 and directives and guidance issued by California Department of Transportation (Caltrans) dated March 4, 2009.

II. DOT-ASSISTED CONTRACTING PROGRAM FOR FFY 2010/11

Table 1 serves to identify SANBAG's DOT-assisted contracting program for FFY 2010/11 considered in preparing its *Annual Anticipated DBE Participation Level (AADPL)*. The *Hunts Lane UP Grade Separation Project* scope of work includes: construction of a UP grade separation, including the construction of structural concrete structures and minor concrete structures, PCC Pavement, landscaping, signal installation, lighting, water main, sewer main, reinforced concrete pipe, junction structures, inlets, catch basins, demolition, clearing and grubbing and other related trades and construction management services. This project has viable subcontracting possibilities, a required criterion for AADPL consideration, and is anticipated to be awarded within FFY 2010/11.

Table 1

PROJECT	Total Estimated Project Cost	Estimated Federal Dollar Share of Construction	Estimated Federal Dollar Share of Professional Services	Estimated Federal Dollar Share of Materials & Supplies
Hunts Lane and UP Grade Separation	\$25,156,000	\$18,840,000	\$0.00	\$0.00
TOTAL	\$25,156,000.00	\$18,840,000.00	\$0.00	-0-

Table 2 provides a summary of the categories of work/scopes of the defined Contract/Project identified in Table 1 by various North American Industrial Classification System (NAICS) work codes for purposes of weighing the categories of work based on their estimated dollar value and

the corresponding relative availability of DBEs in contrast to all firms available in the following "Base Figure" analysis:

Table 2

CATEGORY OF WORK	NAICS CODES	ESTIMATED % OF CONTRACT
221310	Water Supply and Irrigation Systems	0.79%
237110	Water and Sewer Line and Related Structures Construction	6.63%
237310	Highway, Street, and Bridge Construction	20.32%
238120	Structural Steel and Precast Concrete Contractors	7.96%
238140	Masonry Contractors	0.34%
238210	Electrical Contractors and Other Wiring Installation Contractors	1.56%
238320	Painting Contractors	0.10%
238910	Site Preparation Contractors	0.12%
238990	All Other Specialty Trade Contractors	61.51%
541330	Engineering Services	0.12%
541620	Environmental Consulting Services	0.06%
561730	Landscaping Services	0.49%
TOTAL		100% (75% of Federal \$)

III. AADPL - METHODOLOGY

Step 1: Determination of a Base Figure (26.45)¹

To establish SANBAG's Base Figure of the relative availability of DBEs to all comparable firms (DBEs and Non-DBEs) available to bid or propose on SANBAG's FFY 2010/11 DOT-assisted contracting opportunities projected to be solicited, SANBAG followed one of the five prescribed federal methodologies to determine relative availability. This was accomplished by accessing the *California Unified Certification Program (CUCP) DBE Database of Certified Firms* and the *2007 U.S. Census Bureau County Business Patterns (CBP) Database* sorted by corresponding zip codes within SANBAG's market area (defined as the County of San Bernardino, County of Riverside, County of Los Angeles, and Orange County) for each of the specific subcontracting possibilities by NAICS Code. SANBAG's local market area represents where the substantial majority of SANBAG's dollars are intended to be expended and/or where the substantial majority of SANBAG's bids or quotes are received for similar types of work.

¹ 26.45 represent Title 49 CFR Part 26 regulatory goal setting methodology reference.

SANBAG made a concerted effort to ensure that the type of businesses included in the numerator was as close as possible to the types of businesses included in the denominator. For corresponding detail of all work category classifications grouped, refer to Attachments I and II.

- ⇒ *For the numerator: California UCP DBE Database of Certified Firms*
- ⇒ *For the denominator: 2007 U.S. Census Bureau Business Pattern Database (CBP)*

To determine the relative availability of DBEs, SANBAG divided the numerator representing the ratio of ready, willing and able DBE firms by NAICS within SANBAG's defined market area, by the denominator representing all firms (DBEs and Non-DBEs) available by each work category within the defined market area. SANBAG further refined its analysis by applying weight to each individual work category relative to its estimated contracting dollar share.

The AADPL Base Figure resulting from this weighted calculation is as follows:

$$\left(\frac{\text{Number of Ready, Willing, and Able DBEs}}{\text{Number of All Available Firms (Including DBEs and Non-DBEs)}} \times \text{Weight} \right) \times 100 = \text{AADPL BASE FIGURE}$$

Step 1: AADPL Base Figure (weighted by type of work to be performed (NAICS Categories) and estimated corresponding contracting dollars)

DBES	DBEs (a)	All Firms (b)	Availability (c)	Weight (d)	Product (e)
221310 Water Supply and Irrigation Systems	7	142	0.0493	0.79%	0.0004
237110 Water and Sewer Line and Related Structures Construction	35	341	0.1026	6.63%	0.0068
237310 Highway, Street, and Bridge Construction	76	270	0.2815	20.32%	0.0572
238120 Structural Steel and Precast Concrete Contractors	35	235	0.1489	7.96%	0.0119
238140 Masonry Contractors	12	722	0.0166	0.34%	0.0001
238210 Electrical Contractors and Other Wiring Installation Contractors	81	3,633	0.0223	1.56%	0.0003
238320 Painting Contractors	24	1,662	0.0144	0.10%	0.0000
238910 Site Preparation Contractors	57	1,122	0.0508	0.12%	0.0001
238990 All Other Specialty Trade Contractors	91	1,491	0.0610	61.51%	0.0375
541330 Engineering Services	154	3,102	0.0496	0.12%	0.0001
541620 Environmental Consulting Services	87	449	0.1938	0.06%	0.0001
561730 Landscaping Services	11	2,752	0.0040	0.49%	0.0000
				100%	0.1145
AADPL Base Figure				11.45%	

Based on this analysis, SANBAG determined its AADPL to be **11.45%** for FFY 2010/11. The AADPL is expressed as a percentage of all DOT-assisted funds that SANBAG anticipates to expend in FFY 2010/11.

The AADPL further serves to identify the relative availability of DBEs based on evidence of ready, willing, and able DBEs to all comparable firms, which are known to be available to compete for and perform on SANBAG's DOT-assisted contracts. The AADPL reflects a determination of the level of DBE participation, which would be expected absent the effects of discrimination.

RACE-CONSCIOUS PROJECTION

To determine the Race-Conscious component projection of its AADPL, SANBAG refined the numerator to exclusively represent the ratio of ready, willing and able UDBE firms (African American, Asian Pacific American, Native American and Women owned firms) by NAICS within SANBAG's defined market area and divided this number by the denominator representing all firms (DBEs and Non-DBEs) available by each work category within the defined market area. SANBAG further refined its Race-Conscious projection analysis by applying weight to each work category relative to its estimated contract dollar share. For corresponding detail of all defined work category classifications, refer to Attachments I-RC and Attachment II.

	UDBEs	UDBEs (a)	All Firms (b)	Availability a/b = c (c)	Weight (d)	c x d = e (e)
221310	Water Supply and Irrigation Systems	2	142	0.0141	0.79%	0.0001
237110	Water and Sewer Line and Related Structures Construction	13	341	0.0381	6.63%	0.0025
237310	Highway, Street, and Bridge Construction	41	270	0.1519	20.32%	0.0309
238120	Structural Steel and Precast Concrete Contractors	13	235	0.0553	7.96%	0.0044
238140	Masonry Contractors	5	722	0.0069	0.34%	0.0000
238210	Electrical Contractors and Other Wiring Installation Contractors	47	3,633	0.0129	1.56%	0.0002
238320	Painting Contractors	11	1,662	0.0066	0.10%	0.0000
238910	Site Preparation Contractors	32	1,122	0.0285	0.12%	0.0000
238990	All Other Specialty Trade Contractors	51	1,491	0.0342	61.51%	0.0210
541330	Engineering Services	103	3,102	0.0332	0.12%	0.0000
541620	Environmental Consulting Services	75	449	0.1670	0.06%	0.0001
561730	Landscaping Services	5	2,752	0.0018	0.49%	0.0000
					100%	0.0593
Race-Conscious Component Projection					5.93%	

RACE-NEUTRAL PROJECTION

To determine the Race-Neutral component projection of its AADPL, SANBAG subtracted the established AADPL Base Figure (11.45%) by the Race-Conscious Projection (5.93%). The Race-Neutral projection determined based on the application of this formula follows:

$$\text{AADPL Base Figure (11.45\%)} - \text{Race-Conscious Base Figure (5.93\%)} = \text{Race-Neutral (\%)} \\ \text{Projection Formula}$$

<i>AADPL Base Figure</i>	<i>11.45 %</i>
<i>Race-Conscious Component Projection</i>	<i>- 5.93 %</i>
	<i>5.52%</i>
<i>Race-Neutral Projection = 5.52%</i>	

RACE-NEUTRAL & RACE-CONSCIOUS PROJECTIONS

Accordingly, SANBAG projects to meet 5.93% of the 11.45% AADPL for FFY 2010/11 utilizing **Race-Conscious measures**, including establishing and utilizing contract specific UDBE numeric goals, as necessary to achieve the AADPL. 5.52% of the 11.45% AADPL is projected to be achieved utilizing **Race-Neutral methods** in accordance with Title 49 CFR Part 26.51. The application of Race-Conscious goals on SANBAG's DOT-assisted contracts will continue to be used only to the extent necessary to achieve SANBAG's AADPL. Should the initial contract's actual DBE commitments exceed projections, adjustments will be made accordingly.

IV. RACE-NEUTRAL IMPLEMENTATION MEASURES

In accordance with Title 49 CFR Part 26.51, SANBAG understands that it must meet the maximum feasible portion of its AADPL by utilizing Race-Neutral means of facilitating DBE participation. Therefore, SANBAG plans to implement the following Race-Neutral measures for FFY 2010/11:

- SANBAG will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces); **Planned Race-Neutral Measures:** will also include holding pre-bid conferences for SANBAG's federally-aided projects, which include a networking component to promote teaming opportunities between prospective Primes and the DBE and Small Business contracting community.

- Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing); **Planned Race-Neutral Measures:** *SANBAG will, through its website refer the DBE and Small Business Contracting Community to the SBA Bonding Assistance Program, via the Caltrans California Construction Contracting Program (CCCP) and its technical counselors.*
- Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate); **Planned Race-Neutral Measures:** *SANBAG will solicit DBEs and Small Businesses within SANBAG's defined market area utilizing any or all of the following means: Issue solicitation flyers/letters to promote upcoming bid opportunities through, email blasts, postcards, website posting, fax blasts, etc.*
- Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses; **Planned Race-Neutral Measures:** *SANBAG will actively promote the Caltrans sponsored California Construction Contracting Program (CCCP) to its market place contractors, consultants and vendors through SANBAG's website by directing them to www.buildcalifornia.org*
- Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency; **Planned Race-Neutral Measures:** *SANBAG will hold pre-bid conferences that will include a networking component to promote teaming opportunities between prospective primes and the DBE and Small Business contracting community.*
- Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; **Planned Race-Neutral Measures:** *SANBAG will advise its Contracting Community of the availability of the California Unified Certification Program (CUCP) database (directory of Certified DBEs) website at www.dot.ca.gov/ucp/GetLicenseForm.do*
- Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media. **Planned Race-Neutral Measures:** *SANBAG will advise the DBE and Small Business community to participate and attend Caltrans' sponsored free courses specifically offered through the CCCP, specifically the "Navigating the Caltrans Procurement Website" course to assess bid opportunities as this course includes tips on accessing local agencies websites as well.*

V. CONTRACT-SPECIFIC UDBE GOAL APPLICATION BY PROJECT

The following Table serves to breakdown the results of the availability analysis and weighting by project to facilitate contract specific goal application.

CONTRACT-SPECIFIC UDBE GOAL APPLICATION BY PROJECT		
PROJECT NAME	PROFESSIONAL SERVICES	CONSTRUCTION
Hunts Lane and UP Grade Separation	N/A	5.93%

**SANBAG
ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL)
FEDERAL FISCAL YEAR 2010/2011**

ESTABLISHMENT OF THE NUMERATOR (DBE)

OF ESTABLISHED DBE FIRMS BY NAICS WORK CATEGORIES WITHIN SANBAG'S
MARKET AREA (DEFINED AS LOS ANGELES, ORANGE, RIVERSIDE & SAN BERNARDINO COUNTIES)¹

WORK CATEGORIES:	BY CORRESPONDING ZIP CODE																																								
	0600	0601	0602	0603	0604	0605	0606	0607	0608	0609	0610	0611	0612	0613	0614	0615	0616	0617	0618	0619	0620	0621	0622	0623	0624	0625	0626	0627	0628	0629	0630	0631	0632	0633	0634	0635	0636	0637	0638	0639	TOTAL
237100 Water Supply and Irrigation Systems Construction	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7
237110 Water and Sewer Lines and Related Structures Construction	2	0	1	0	0	1	3	3	0	1	1	0	7	1	1	0	6	0	2	2	0	4	2	0	4	2	0	4	2	2	0	4	2	2	0	4	2	2	3	0	35
237210 Highways, Streets, and Bridge Construction	7	0	3	1	0	1	7	3	0	1	1	0	7	1	1	0	11	0	0	4	2	0	4	2	0	4	2	0	4	2	0	4	2	0	4	2	7	1	0	76	
237220 Individual Street and Precinct Curbside Construction	3	0	0	0	0	2	2	3	1	1	0	0	2	0	0	0	4	0	0	3	4	2	3	1	2	1	0	3	1	2	1	0	3	1	0	0	0	35			
238110 Heavy Construction	1	0	2	0	0	3	0	0	0	1	0	0	2	0	0	0	2	0	0	1	0	1	0	1	0	0	0	1	0	0	0	12	0	0	0	0	12	0	81		
238210 Electrical Contractors	32	0	0	2	0	2	3	3	0	1	0	0	2	0	0	0	12	0	2	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	24		
238210 Plumbing and Mechanical Contractors	3	0	2	0	0	2	1	1	2	0	0	1	1	0	1	1	4	0	0	0	0	0	0	1	1	0	0	1	1	0	0	3	1	2	0	3	1	24			
238310 Site Preparation Contractors	5	0	1	1	1	1	1	5	1	1	0	1	3	1	0	0	1	0	0	3	5	3	0	1	2	0	1	0	0	0	0	0	0	0	0	0	0	2	57		
238410 All Other Specialty Trade Contractors	9	0	3	2	1	0	3	8	1	2	0	1	1	0	0	1	27	0	3	5	2	0	5	7	4	12	2	0	7	29	11	20	0	0	0	0	0	154			
641200 Engineering Services	13	0	2	1	2	2	2	4	2	3	0	2	1	0	0	3	3	0	3	3	0	3	0	7	29	11	20	0	0	0	0	0	0	0	0	0	0	0	87		
641200 Environmental Consulting Services	6	0	0	0	0	0	0	3	3	0	4	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11			
641200 Landscaping Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
TOTAL	63	0	27	7	4	13	34	23	11	13	0	21	3	0	0	4	104	0	20	12	10	32	42	13	77	5	0	0	0	0	0	0	0	0	0	0	0	0	670		

¹ DATA SOURCED: California UOF DBE Database of Certified Firms.

**SANBAG
ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL)
FEDERAL FISCAL YEAR 2010/2011**

ESTABLISHMENT OF THE NUMERATOR (UDBE):

OF ESTABLISHED UDSE FIRMS BY NAICS WORK CATEGORIES WITHIN SANBAG'S
MARKET AREA (DEFINED AS LOS ANGELES, ORANGE, RIVERSIDE & SAN BERNARDINO COUNTIES)¹

WORK CATEGORIES:		BY CORRESPONDING ZIP CODE																									
		900	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	TOTAL
221100	Vehicle Body and Interior Repairs	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
227100	Vehicle Repairs and Tune-ups	1	0	1	0	0	0	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	13
237100	Highway, Street, and Bridge Construction	5	0	2	1	0	1	5	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	41
238100	Structural Steel and Precast Concrete Construction	2	0	0	0	0	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	13
239100	Masonry Contractors	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
240100	Heavy Construction	1	0	2	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11
242100	Electrical Contractors	4	0	2	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	32
243100	Plumbing and Mechanical Contractors	4	0	3	2	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	53
250000	Construction Contractors	6	0	3	2	0	0	1	5	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	109
260000	All Other Specialty Trade Contractors	11	0	2	0	0	2	0	3	1	1	4	1	5	0	0	0	0	0	0	0	0	0	0	0	0	75
841000	Engineering Services	0	0	7	0	0	2	0	3	3	0	3	1	0	0	0	0	0	0	0	0	0	0	0	0	0	5
841200	Environmental Consulting Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
841300	Landscaping Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL		48	0	23	7	2	9	13	24	8	8	7	2	21	9	4	6	6	8	13	6	24	35	21	40	3	330

¹ DATA SOURCE: California LUP DBE Database of Certified Firms.

**SANBAG
ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL)
FEDERAL FISCAL YEAR 2010/2011**

ESTABLISHMENT OF THE DENOMINATOR (All Firms):

**# OF ALL ESTABLISHED FIRMS (DBEs, UDBEs and NON-DBEs) BY NAICS WORK CATEGORIES
WITHIN SANBAG's MARKET AREA (DEFINED AS LOS ANGELES, ORANGE, RIVERSIDE & SAN BERNARDINO
COUNTIES)²**

WORK CATEGORIES:		BY CORRESPONDING COUNTY				
NAICS CODE	NAICS DESCRIPTION	LOS ANGELES	ORANGE	RIVERSIDE	SAN BERNARDINO	TOTAL
221310	Water Supply and Irrigation Systems	73	15	19	35	142
237110	Water and Sewer Line and Related Structures Construction	106	68	97	70	341
237310	Highway, Street, and Bridge Construction	96	63	56	55	270
238120	Structural Steel and Precast Concrete Contractors	122	40	25	48	235
238140	Masonry Contractors	303	177	152	90	722
238210	Electrical Contractors	1832	874	527	400	3,633
238320	Painting and Wall Covering Contractors	809	451	240	162	1,662
238910	Site Preparation Contractors	430	240	266	186	1,122
238990	All Other Specialty Trade Contractors	579	358	316	238	1,491
541330	Engineering Services	1493	1086	263	260	3,102
541820	Environmental Consulting Services	205	159	43	42	449
561730	Landscaping Services	1138	789	559	266	2,752
TOTAL NUMBER OF ESTABLISHED FIRMS		7,186	4,320	2,563	1,852	15,921

². DATA SOURCE: 2007 U.S. Census Bureau: County Business Patterns, NAICS Work Category Codes.

Exhibit 9-B Local Agency DBE Annual Submittal Form

TO: CALTRANS DISTRICT 08
District Local Assistance Engineer – Mr. Sean Yeung

The amount of the Annual Anticipated DBE Participation Level (AADPL) and methodology are presented herein, in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan.

The San Bernardino Associated Governments ("SANDAG") submits our AADPL information. We have established an AADPL of 11.45% (5.52% Race Neutral; 5.93% Race Conscious) for the Federal Fiscal Year 2010/11, beginning on October 1, 2010 and ending on September 30, 2011.

Methodology

Refer to the attached AADPL Methodology Enclosure.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Mr. Duane Baker
San Bernardino Associated Governments (SANBAG)
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410
909-884-8276 phone
909-885-4407 fax
dbaker@sanbag.ca.gov

Planned Race-Neutral Measures

SANBAG plans to implement the following race-neutral measures to comply with 49 CFR Part 26.51 and Section V of the California Department of Transportation Race-Conscious DBE Program Implementation Agreement for Local Agencies.

SANBAG will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces); and other Planned Race-Neutral Measures: will also include holding pre-bid conferences for SANBAG's federally-aided projects, which include a networking component to promote teaming opportunities between prospective Primes and the DBE and Small Business contracting community.

- Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing); Planned Race-Neutral Measures: SANBAG will, through its website refer the DBE and Small Business Contracting Community to the SBA bonding assistance program, via the California Construction Contracting Program (CCCP) and its technical counselors.
- Providing technical assistance and other services;
- Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate); Planned Race-Neutral Measures:

SANBAG will solicit DBEs and Small Businesses within the SANBAG's defined market area utilizing any or all of the following means: Issue solicitation flyers/letters to promote upcoming bid opportunities through; email blasts, postcards, website posting, fax blasts, etc.

- Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses; Planned Race-Neutral Measures: SANBAG will actively promote the Caltrans sponsored California Construction Contracting Program (CCCP) to its market place contractors, consultants and vendors through the SANBAG's website by directing them to www.buildcalifornia.org
- Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency; Planned Race-Neutral Measures: SANBAG will hold pre-bid conferences that will include a networking component to promote teaming opportunities between prospective primes and the DBE and Small Business contracting community.
- Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; Planned Race-Neutral Measures: SANBAG will advise its Contracting Community of the availability of the California Unified Certification Program (CUCP) database (directory of Certified DBEs) website at www.dot.ca.gov/ucp/GetLicenseForm.do
- Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media. Planned Race-Neutral Measures: SANBAG will advise the DBE and Small Business community to participate and attend Caltrans' sponsored free courses specifically offered through the CCCP. Specifically, firms will be referred to "Navigating the Caltrans Procurement Website" course to assess bid opportunities as this course includes tips on accessing local agencies websites as well.
- SANBAG staff will participate in training sessions as available, to keep current on regulatory update/directives.

Prompt Pay

Federal regulation (49 CFR 26.29) requires one of three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage, kept by the prime contractor or subcontractor, to a subcontractor. (SANBAG's designation is Attached)

Prompt Payment Mechanism

49 CFR Part 26.29(d) requires providing appropriate means to enforce prompt payment. These means may include appropriate penalties for failure to comply with the terms and conditions of the contract. The means may also provide that any delay or postponement of payment among the parties may take place only for good cause, with the local agency's prior written approval. A brief description of SANBAG's monitoring and enforcement mechanisms in place to ensure that all subcontractors, including DBEs, are promptly paid is provided below:

During the course of contract construction, contractor is required to provide Subcontracting Request Form that lists and details all subcontractors that will be performing work worth more than \$10,000 and/or ½% of the total bid. This submittal is tallied with the listed subcontractors (including DBEs) in the bid document to verify that the subcontractors (including DBEs) are getting their portion of the work. The monthly labor compliance documentation is collected by each project's construction management firm to verify the names of employers (DBE and non-DBE) performing the work for materials and workmanship provided for the contract. Through review and management of labor compliance documentation, San Bernardino Associated Governments will know who performed specific services provided during the course of construction. At the completion of the construction contract, the contractor is required to submit the Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors form, Exhibit 17-F, which is reviewed and approved prior to project closeout.

(Signature) Date

Duane Baker, Director of Management Services (909) 884-8276
(Print Name and Title) Phone Number
San Bernardino Associated Governments ("SANBAG")

(Signature of Caltrans District Local Assistance Engineer [DLAE]) Date

Distribution: (1) Original - DLAE
(2) Signed copy by the DLAE - Local Agency

DBE Annual Submittal Form (07/31/09)

(Attachment)

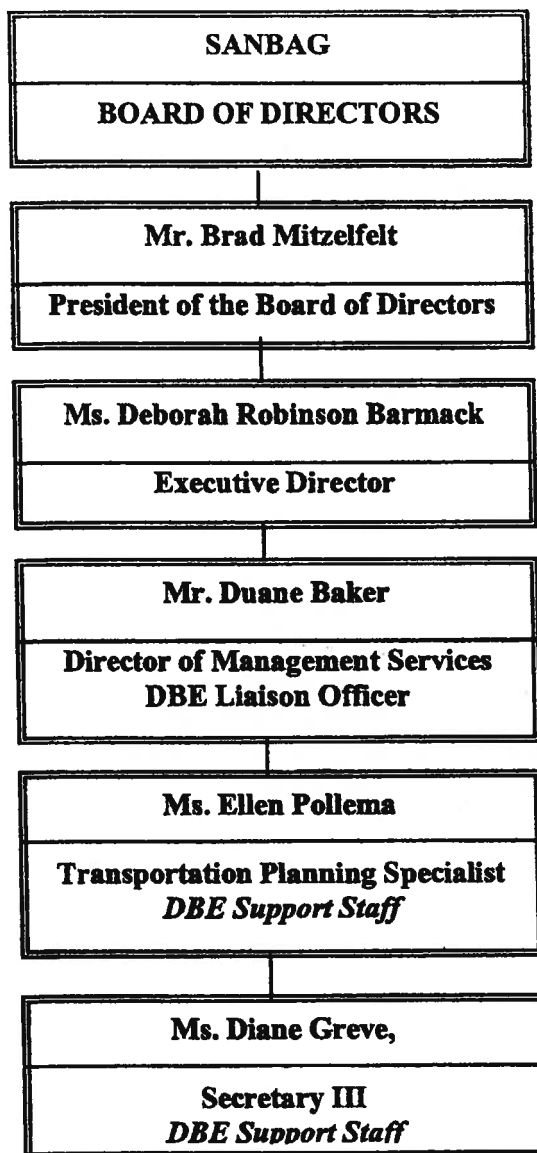
Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- ☒ **Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- ☐ **Method 2:** No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- ☐ **Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

**SAN BERNARDINO ASSOCIATED
GOVERNMENTS (SANBAG)
DISADVANTAGED BUSINESS
ENTERPRISE (DBE) PROGRAM
ORGANIZATIONAL CHART**



DBE Liaison Officer Contact Information:

Mr. Duane Baker
San Bernardino Associated Governments (SANBAG)
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715
Phone: (909) 884-8276
Fax: (909) 885-4407
E-Mail: dbaker@sanbag.ca.gov

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 6

Date: August 4, 2010

Subject: Amendment No. 1 to Park'N'Ride (PNR) Agreement 09-094

Recommendation: * Approve Amendment No. 1 to Agreement No. 09-094 with Highland Avenue Community Church, executing the attached Subordination Agreement as an amendment to the Agreement. This Amendment does not change the financial provision of the existing Agreement.

Background: On September 1, 2004, the SANBAG Board approved a boiler plate contract for leases with businesses to provide additional PNR spaces for commuters traveling to and from work. This Board action provided authority to the Executive Director to execute contracts for the program, for a maximum term of two years and not-to-exceed \$25,000 per contract. Since the program began, SANBAG has entered into numerous leases and currently has four PNR locations under lease, totaling 278 parking spaces. Highland Avenue Community Church (off of Archibald Avenue and State Route 210 in the City of Rancho Cucamonga) was the first leased and continues to be the most successful PNR location, with 100 spaces for carpools and vanpools.

Highland Avenue Community Church is currently undergoing facility improvements to its buildings, and is in the process of finalizing a loan to fund the improvements. The improvements will have no impact on the actual PNR lot. As a component of finalizing the loan, the lender (Christian Community Credit Union) requires a subordination agreement between the Church and SANBAG so that the loan may be finalized.

*Approved
Board of Directors*

Date: _____

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

X	COG	X	CTC	X	CTA		SAFE		CMA
---	-----	---	-----	---	-----	--	------	--	-----

Check all that apply

BRD1008a-MCM

Attachment: C0909401.docx

Attached is an amendment to the current agreement, outlining the terms and conditions of this subordination agreement. Staff requests approval of this amendment.

Financial Impact: This item has no impact on the approved Fiscal Year (FY) 2010-2011 SANBAG Budget, Task 40611000. The expenses for the PNR leases are included in the current FY Budget, funded by Congestion Mitigation/Air Quality and Traffic Management Systems funds.

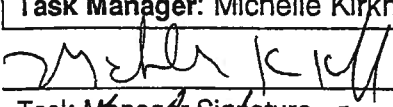
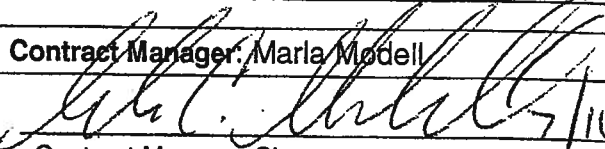
Reviewed By: This item was reviewed and unanimously recommended for approval by the Plans and Programs Policy Committee on July 21, 2010. The Amendment has been reviewed and approved by County Counsel.

Responsible Staff: Marla Modell, Air Quality/Mobility Specialist

SANBAG Contract No. **C09094-01**
by and between SAN BERNARDINO ASSOCIATED GOVERNMENTS and HIGHLAND AVENUE
COMMUNITY CHURCH for PARK & RIDE LOT LEASE

FOR ACCOUNTING PURPOSES ONLY						
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # <u>09094/1000091</u> Vendor ID <u>HACC/00951</u>	Retention: <input type="checkbox"/> Yes ____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment			
Notes:						
Original Contract: \$ <u>18,000</u>		Previous Amendments \$ <u>0</u>				
		Previous Amendments \$ <u>0</u>				
Contingency / Allowance Amount \$ ____		Contingency / Allowance Total: \$ <u>0</u>				
		Current Amendment: \$ <u>0</u>				
		Current Amendment Contingency / Allowance: \$ <u>0</u>				
Contingency Amount requires specific authorization by Task Manager prior to release.						
Contract TOTAL ►						\$ <u>18,000</u>
* Funding sources remain as stated on this document unless and until amended by proper authority. Funding sources are those which are ultimately responsible for the expenditure.						
▼ Include funding allocation for the original contract or the amendment						
Main Task/ Project	Level 1	Level 2	Cost Code/ Object	Grant ID/ Supplement	Funding Sources/ Fund Type (Measure I, STP, CMAQ, etc.)	Amounts for Contract Total or Current Amndmnt Amt
<u>406</u>	<u>000</u>	<u>000</u>	<u>5553/52001</u>	<u>99010</u>	<u>TREE</u>	\$ <u>0</u>
<u>406</u>	<u>000</u>	<u>000</u>	<u>5553/52001</u>	<u>11211</u>	<u>CMAQ-SCAB</u>	\$ <u>0</u>
<u>406</u>	<u>000</u>	<u>000</u>	<u>5553/52001</u>	<u>11202</u>	<u>CMAQ-MDAB</u>	\$ <u>0</u>
						\$ ____
Original Board Approved Contract Date: <u>9/1/04</u>				Contract Start: <u>10/1/08</u>		Contract End: <u>9/30/10</u>
New Amend. Approval (Board) Date: <u>8/4/10</u>				Amend. Start: ____		Amend. End: ____
Allocate the Total Contract Amount or Current Amendment amount between Approved Budget Authority in the current year and Future Fiscal Year(s) Unbudgeted Obligation .						
Approved Budget Authority ►		Fiscal Year: ____ \$ <u>0</u>		Future Fiscal Year(s) -- Unbudgeted Obligation ►		\$ <u>0</u>
<input checked="" type="checkbox"/> Budget authority for this contract currently exists in Task No. <u>406</u> (C-Task may be used here.). <input type="checkbox"/> A budget amendment is required. A Budget Amendment Request is attached.						

CONTRACT MANAGEMENT	
Check all applicable boxes:	
<input type="checkbox"/> Intergovernmental	<input checked="" type="checkbox"/> Private
<input type="checkbox"/> Federal Funds	<input type="checkbox"/> State/Local Funds
<input type="checkbox"/> Disadvantaged Business Enterprise (DBE)	<input type="checkbox"/> Underutilized DBE (UDBE)

Task Manager: Michelle Kirkhoff	Contract Manager: Marla Modell
 Task Manager Signature	 Contract Manager Signature
Date: <u>7/16/10</u> <u>7/21/10</u>	Date: <u>7/16/10</u>
Chief Financial Officer Signature	Date

C09094-01

Finance will not process any payments without budget authority and properly executed contracts.
Form 28 9/09 Contract Summary Sheet

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

ESCROW NO:
TITLE ORDER NO: NCS-442535

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 0201-055-049

SUBORDINATION, ATTORNMENT AND NONDISTURBANCE AMENDMENT TO AGREEMENT 09-094-01

NOTICE: THIS SUBORDINATION ATTORNMENT AND NONDISTURBANCE AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION, ATTORNMENT AND NONDISTURBANCE AGREEMENT (this "Agreement"), made by and among HIGHLAND AVENUE COMMUNITY CHURCH OF THE NAZARENE, owner of the land hereinafter described and hereinafter referred to as "Owner," SAN BERNARDINO ASSOCIATED GOVERNMENTS ("SANBAG") and THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (the "Department"), individually and collectively present owner and holder of the leasehold estate created by the lease hereinafter described and hereinafter referred to as "Lessee," and CHRISTIAN COMMUNITY CREDIT UNION, hereinafter referred to as "Lender,"

WITNESSETH

THAT WHEREAS, HIGHLAND AVENUE COMMUNITY CHURCH OF THE NAZARENE as lessor, executed a lease, dated October 1, 2008 (the "Lease") covering: Assessor parcel number (APN) #201-055-049 (the "Premises") in favor of SAN BERNARDINO ASSOCIATED GOVERNMENTS ("SANBAG") AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (the "Department") (individually and collectively "Lessee"), as lessee, which lease was recorded as Instrument No. 2009-0003860, on January 5, 2009 in the Official Records of San Bernardino County; and

WHEREAS, Owner has executed, or is about to execute, a deed of trust (the "Deed of Trust") and note (the "Note") in the sum of \$250,000, dated _____, in favor of "Lender," payable with interest and upon the terms and conditions described therein, which Deed of Trust is to be recorded concurrently herewith; and

WHEREAS, it is a condition precedent to obtaining said loan that said Deed of Trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the Lease above described and to the leasehold estate created thereby; and

WHEREAS, Lender is willing to make said loan provided the Deed of Trust securing the same is a lien or charge upon said land prior and superior to the lease above described and to the leasehold estate created thereby and provided that Lessee will specifically and unconditionally subordinate and subject the Lease above described, the leasehold estate created thereby together with all rights and privileges of Lessee thereunder, to the lien or charge of the deed of trust in favor of Lender; and APN: 0201-055-049

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Owner; and Lessee is willing that the Deed of Trust securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the Lease above described and to the leasehold estate created thereby.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, it is hereby declared, understood and agreed as follows:

- (1) That the Deed of Trust securing the Note in favor of Lender, and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the land described therein, prior and superior to the Lease above described, to the leasehold estate created thereby and to all rights and privileges of Lessee thereunder, and said Lease, the leasehold estate created thereby together with all rights and privileges of Lessee thereunder is hereby subjected, and made subordinate, to the lien or charge of the Deed of Trust in favor of Lender.
- (2) That Lender would not make its loan above described without this subordination agreement.
- (3) That this Agreement shall be the whole and only agreement with regard to the subjection and subordination of the Lease above described and the leasehold estate created thereby together with all rights and privileges of Lessee thereunder to the lien or charge of the Deed of Trust in favor of Lender above referred to and shall supersede and cancel, but only insofar as would affect the priority between the Lease and the Deed of Trust hereinbefore specifically described, any prior agreements as to such subjection and subordination, including, but not limited to, those provisions, if any, contained in the Lease above described, which provide for the subjection or subordination of the Lease and the leasehold estate created thereby to a deed or deeds of trust or to a mortgage or mortgages.
- (4) Lessee's peaceful and quiet possession of the Premises shall not be disturbed and Lessee's rights and privileges under the Lease, including but not limited to the provisions of the Lease set forth under the headings "Term," "Early Termination," "Insurance," "Indemnity," and "Eminent Domain" shall not be diminished by Lender's foreclosure, acceptance of a deed in lieu of foreclosure, or any other exercise of Lender's rights or remedies under a deed of trust, a note, a loan agreement, any other loan document, or the laws governing secured loans. All of the provisions of the Lease shall prevail over any conflicting provisions in the Deed of Trust, the Note, any loan agreement, any other loan document, or the laws governing secured loans. Lessee shall not be named or joined in any foreclosure, trustee's sale, or other proceeding or action to enforce the Deed of Trust, the Note, any loan agreement, or any other loan document, unless such joinder shall be legally required to perfect such foreclosure, trustee's sale, or other proceeding or action.
- (5) If the Deed of Trust is foreclosed for any reason, or Owner deeds the Premises to Lender in lieu of foreclosure, the Lease shall not be extinguished and Lessee shall be bound to Lender under all the terms, covenants, and conditions of the Lease for the balance of the term of the Lease with the same force and effect as if Lender was the lessor under the Lease. Lessee shall attorn to Lender as Lessee's Lessor, and agrees to recognize Lender as the new owner and promises to pay the rent to Lender as Owner. This attornment shall be effective and self-operative, without the execution of any other instruments on the part of any of the parties to this Agreement, immediately upon Lender succeeding to the interest of Owner under the Lease.
- (6) Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds and any application or use of

such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the effect of this Agreement in whole or part; and

Lessee declares, agrees and acknowledges that:

- (a) Subject to the terms of this Agreement, it consents to and approves (i) all provisions of the Note and Deed of Trust in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender's loan;
- (b) It intentionally and unconditionally waives, relinquishes, subjects and subordinates the Lease above described, the leasehold estate created thereby together with all rights and privileges of Lessee thereunder in favor of the lien or charge upon said land of the Deed of Trust in favor of Lender above referred to and understands that in reliance upon, and in consideration of, this waiver, relinquishment, subjection and subordination, specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment, subjection, and subordination.


APN: 0201-055-049

NOTICE: THIS SUBORDINATION, ATTORNMENT AND NONDISTURBANCE AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR LEASE TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

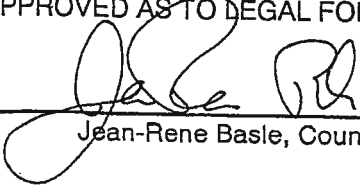
IT IS RECOMMENDED, THAT PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT THERETO.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

SANBAG (Lessee)
Brad Mitzelfelt, President


Caltrans (Lessee)
Thomas Ainsworth, Acting Deputy District Director for
Operations

APPROVED AS TO LEGAL FORM FOR SANBAG:



Jean-Rene Basle, County Counsel

Owner

Lender

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

Minute Action

AGENDA ITEM: 7

Date: August 4, 2010

Subject: Execution of Agreements related to the Implementation of the SANBAG Natural Gas (NG) Truck Project (Project)

- Recommendation:***
1. Approve Funding Agreement No. R10-119, with the California Energy Commission (CEC), for \$9,308,000, towards the Project's vehicle purchases, for the period of August 4, 2010 to December 22, 2013, as outlined below in the Financial Impact Section;
 2. Execute Agreement No. C10-122, with the Ryder Truck Rental, Inc., for \$18,660,708, for NG vehicles, two alternative fueling stations, three facility upgrades and training for the Project, for the period of August 4, 2010, to December 22, 2013, as outlined below in the Financial Impact Section; and
 3. Authorize the Executive Director to approve administrative changes to the above contracts' Scopes of Work, Work Program and/or budget, as needed, that are minor in nature and do not change the Project's scope or funding.

Background: In late August 2009, the DOE announced that SANBAG was successful in receiving funding from the Clean Cities' Fiscal Year (FY) 09 Petroleum Reduction Technologies Projects for the Transportation Sector. The following week, the CEC announced that SANBAG was a recipient of an Assembly Bill 118 grant award to match the DOE Clean Cities grant. These two grants total \$19.2 million and will be used towards the transition of over 200 tractor/trailer vehicles to natural gas, as well as the construction of two natural gas fueling stations, improvements to maintenance facilities and training.

Approved
Board of Directors

Date: August 4, 2010

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

X	COG	X	CTC	X	CTA		SAFE		CMA
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Check all that apply

At the January 6, 2010 Board meeting, SANBAG approved the execution of an agreement with the DOE for its share of funding for the Project. On February 2, 2010, SANBAG received documentation from its initial fleet partner, J.B. Hunt, stating they were withdrawing from the Project. Fortunately, the DOE and CEC allowed SANBAG time to find a replacement fleet for the Project. On March 3, 2010, the SANBAG Board approved the contract with its consultant, Gladstein, Neandross & Associates (GNA) to provide administrative and technical assistance to the Project. On April 7, 2010, the SANBAG Board approved the selection of Ryder Truck Rental, Inc., as its new Project partner. The CEC approved the funding Agreement with SANBAG at its June 30, 2010 Commission meeting. On July 7, 2010, SANBAG approved the SCAG Agreement for Clean Cities' outreach. The two contracts which remain before starting implementation, is for SANBAG to approve the CEC Funding Contract as well as the Ryder Agreement.

Attached are Scopes of Work and budget information related to these two contracts. The overall \$36.3 million project consists of combined CEC/DOE funding of \$19.2 million, with Ryder matching these funds with \$17 million. The entire CEC allocation will go towards the 202 NG vehicles; whereas the DOE funding will contribute towards vehicle purchases, two NG fueling stations, modifications to three Ryder maintenance facilities, training, administrative expenses, technical assistance, as well as outreach and marketing.

Once implemented any future amendments to the Project will be handled administratively by CEC and DOE. Because of the tight timeline for implementation, and so that a formal SANBAG amendment process (which would require Committee and Board approval) does not delay Project implementation, Staff requests that these types of minor administrative changes to Project's scope, work program and budget be approved by the Executive Director and submitted to the DOE and CEC for processing and approval. Since both the DOE and CEC consider this a procedural matter on SANBAG's part and there is no appropriate place to incorporate these procedures into the DOE or CEC terms and conditions contract template, Staff requests that this administrative amendment procedure be documented as a separate action in this Agenda Item.

The Project will be implemented over a four-year period, starting back in December 23, 2009 with the DOE funding obligation, and will be completed by December 22, 2013. The majority of the funds will be expended during this and the next fiscal year.

Financial Impact: Staffing and expenses to prepare contracts associated with the Project, as well as CEC revenue and expenses associated with the Ryder Contract, have been budgeted in the FY 2010/2011 Budget, Task Number 81211000. Funding: Measure I Transportation Management and Environmental Enhancement funding,

CEC and DOE funding. Remaining funding and expenses will be budgeted in future year Budgets accordingly.

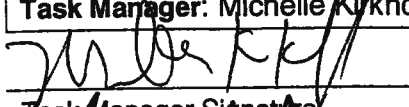
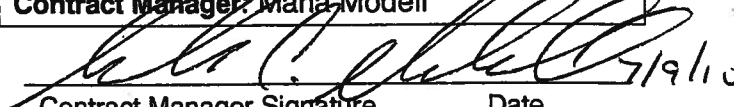

Reviewed By: This item was reviewed and unanimously recommended for approval by the Plans and Programs Policy Committee on July 21, 2010. The item and contracts were reviewed by SANBAG Legal Counsel.

Responsible Staff: Michelle Kirkhoff, Director of Air Quality/Mobility Programs

SANBAG Contract No. R10119
by and between San Bernardino Associated Governments and
The California Energy Commission
for SANBAG Natural Gas Truck Project

FOR ACCOUNTING PURPOSES ONLY							
<input type="checkbox"/> Payable <input checked="" type="checkbox"/> Receivable		Vendor Contract # _____ Vendor ID <u>CEC1/02596</u>		Retention: <input type="checkbox"/> Yes _____ % <input type="checkbox"/> No		<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amendment	
Notes:							
Original Contract:		\$9,308,000		Previous Amendments		\$ _____	
				Previous Amendments		\$ _____	
				Contingency / Allowance Total:			
Contingency / Allowance Amount		\$ _____		Current Amendment:		\$ _____	
				Current Amendment Contingency / Allowance:		\$ _____	
Contingency Amount requires specific authorization by Task Manager prior to release.							
Contract TOTAL ►						\$ 9,308,000	
* Funding sources remain as stated on this document unless and until amended by proper authority. Funding sources are those which are ultimately responsible for the expenditure. ▼ Include funding allocation for the original contract or the amendment							
Main Task/Project	Level 1	Level 2	Cost Code/Object	Grant ID/Supplement	Funding Sources/Fund Type (Measure I, STP, CMAQ, etc.)	Amounts for Contract Total or Current Amndmnt Amt	
GL 812	000	000	54630	22451/10118	CEC State AB 118 Funds	\$9,308,000	
Original Board Approved Contract Date:				8/4/10	Contract Start: 8/4/10		Contract End: 12/22/13
New Amend. Approval (Board) Date:				_____	Amend. Start: _____		Amend. End: _____
Allocate the Total Contract Amount or Current Amendment amount between Approved Budget Authority in the current year and Future Fiscal Year(s) Unbudgeted Obligation .							
Approved Budget Authority ►		Fiscal Year: FY 1011 \$ 7,000,000		Future Fiscal Year(s) – Unbudgeted Obligation ►		\$2,308,000	
<input checked="" type="checkbox"/> Budget authority for this contract currently exists in Task No. <u>812</u> (C-Task may be used here.) <input type="checkbox"/> A budget amendment is required. A Budget Amendment Request is attached.							

CONTRACT MANAGEMENT	
Check all applicable boxes:	
<input checked="" type="checkbox"/> Intergovernmental <input type="checkbox"/> Disadvantaged Business Enterprise (DBE)	<input type="checkbox"/> Private <input type="checkbox"/> Underutilized DBE (UDBE)
<input type="checkbox"/> Federal Funds	<input checked="" type="checkbox"/> State/Local Funds

Task Manager: Michelle Kirkhoff		Contract Manager: Maria Modell	
 Task Manager Signature		 Contract Manager Signature	
Date: 7/9/10		Date: 7/9/10	
 Chief Financial Officer Signature		Date: 7/12/10	

SCOPE OF WORK

TECHNICAL TASK LIST

Task #	CPR	Task Name
1		Administration
2	X	LNG/CNG Truck Order and Deployment
3		Data Collection And Analysis

KEY NAME LIST

Task #	Key Personnel	Key Subcontractor(s)	Key Partner(s)
1	Michelle Kirkhoff-SANBAG	Scott Perry - Ryder Erik Neandross - GNA	Mike Bednarz - DOE
2	Michelle Kirkhoff-SANBAG	Scott Perry- Ryder	TBD – Truck OEM Supplier
3	Michelle Kirkhoff-SANBAG	Scott Perry- Ryder	TBD –Cummins Westport TBD - NexGen / Chart

GLOSSARY

Specific terms and acronyms used throughout this scope of work are defined as follows:

Term/ Acronym	Definition
CNG	Compressed Natural Gas
CPR	Critical Project Review
DOE	Department of Energy
FTD	Fuels and Transportation Division
GNA	Gladstein Neandross & Associates
ICTC	Interstate Clean Transportation Corridor
LCNG	Liquefied Compressed Natural Gas
LNG	Liquefied Natural Gas
NG	Natural Gas (Referring to both CNG and LNG fuels)
SANBAG	San Bernardino Associated Governments

Background:

Assembly Bill 118 (Núñez, Chapter 750, Statutes of 2007), created the Alternative and Renewable Fuel and Vehicle Technology Program (AB 118 Program). The statute, subsequently amended by AB 109 (Núñez) Chapter 313, Statutes of 2008), authorizes the Energy Commission to develop and deploy alternative and renewable fuels and

advanced transportation technologies to help attain the state's climate change policies. The Energy Commission has an annual program budget of approximately \$100 million and provides financial support for projects that:

- Develop and improve alternative and renewable low-carbon fuels;
- Optimize alternative and renewable fuels for existing and developing engine technologies;
- Produce alternative and renewable low-carbon fuels in California;
- Decrease, on a full fuel cycle basis, the overall impact and carbon footprint of alternative and renewable fuels and increase sustainability;
- Expand fuel infrastructure, fueling stations, and equipment;
- Improve light-, medium-, and heavy-duty vehicle technologies;
- Retrofit medium- and heavy-duty on-road and non-road vehicle fleets;
- Expand infrastructure connected with existing fleets, public transit, and transportation corridors; and
- Establish workforce training programs, conduct public education and promotion, and create technology centers.

The California Energy Commission issued Program Opportunity Notice (PON) 08-010 to provide funding opportunities under the AB 118 Program for projects which have been awarded funding from the U.S. Department of Energy (U.S. DOE) under a federal funding opportunity announcement for specified transportation projects. To be eligible funding under PON-08-010, the projects must also be consistent with the Energy Commissions AB 118 Program Investment Plan updated annually.

In response to PON-08-010, Recipient submitted application #93, which was proposed for funding in the Energy Commission's Notice of Proposed Awards (as revised March 18, 2010), and is incorporated by reference to this Agreement in its entirety.

Problem Statement:

Technological - One of the biggest challenges for heavy-duty fleets considering NG alternative fuel options is access to alternative fuel refueling infrastructure. This project will address that challenge in several ways, the most important being the construction of two publicly accessible fueling stations in San Bernardino and in Orange County market areas. These two new Ryder stations will expand the availability of alternative fuel infrastructure along critical goods movement highway corridors in locations that support NG fleet expansion potential and strengthen existing fueling networks with increased options and redundancy. These stations will promote the continued deployment of alternative fuel trucks in the region, not only for Ryder's current and future NG vehicle deployments, but also for local fleets that are interested in capturing the economic and environmental benefits of alternative fuel trucks.

Market –The lack of available refueling infrastructure options in key locations presents the alternative fuels market with a challenge of sustainability. This project will further drive the market for alternative fuel usage through its positive impact on the availability

and supply of heavy-duty alternative fuel truck options available to end-users. An order of this size will undoubtedly catch the attention of all heavy-duty truck manufacturers and thus cause them to more aggressively market their existing alternative fuel products, or develop new products where they now do not offer any. The increased availability of non-petroleum alternative fuel technologies in the fuel-hungry heavy-duty sector will thus lead to increased market penetration of such technologies and therefore in the use of alternative fuels in California.

Goals of the Agreement:

The goal of this Agreement is to provide significant reductions in the use of petroleum-based diesel fuel by maximizing the use of domestically produced low-carbon LNG/LCNG vehicle fuel. A fleet of 202 such trucks will be particularly effective in achieving these goals. SANBAG under contract with DOE will also construct two publicly-accessible LNG/LCNG fueling stations that will support not only Ryder's own LNG/LCNG fuel needs, but outside fleets' LNG/CNG fueling and petroleum reduction strategies as well; thus further expanding the petroleum reduction and use of alternative fuels beyond the significant project baseline numbers.

Objectives of the Agreement:

The objectives of this Agreement are to:

- Deploy approximately 182 heavy-duty Freightliner M2112 Natural Gas trucks powered by Cummins Westport ISL engine, or an equivalent configuration;
- Deploy approximately 20 heavy-duty Peterbilt 386 Natural Gas trucks powered by Cummins Westport ISL engine, or an equivalent configuration;
- Replace over 1.3 million gallons of annual diesel use with 100% domestically produced low-carbon Natural Gas Fuel;
- Accelerate the replacement of heavy-duty diesel trucks with clean-burning low-emission alternative fuel trucks to stimulate a more aggressive "green" automotive industry in the United States;
- Demonstrate how alternative fuel transportation technologies can achieve significant petroleum and emission reductions in fuel intensive commercial freight handling applications including regional distribution and intermodal rail yard operations;
- Provide low-carbon supply chain transportation services to Ryder's customers such as Apria Healthcare, Carrier Corp., Chiquita, Las Vegas Review, Master Halco, Mazda, Toyota, and Xerox.
- Serve as a model for other commercial heavy-duty trucking companies on how to successfully implement advanced technology alternative fuel programs in large commercial fleet operations;
- Reduce more than 7.9 million pounds (3998.4 metric tons) of greenhouse gas (GHG) emissions per year;
- Eliminate approximately 2.3 tons of diesel particulate emissions from a large fleet of trucks which operate in low-income and minority communities that suffer from disproportionate impacts from diesel emissions.

TASK 1 ADMINISTRATION

Task 1.1 Attend Kick-off Meeting

The goal of this task is to establish the lines of communication and procedures for implementing this Agreement.

The Recipient shall:

- Attend a "Kick-Off" meeting with the Commission Project Manager, the Grants Officer, and a representative of the Accounting Office. The Recipient shall bring its Project Manager, Agreement Administrator, Accounting Officer, and others designated by the Commission Project Manager to this meeting. The administrative and technical aspects of this Agreement will be discussed at the meeting. Prior to the kick-off meeting, the Commission Project Manager will provide an agenda to all potential meeting participants.

The administrative portion of the meeting shall include, but not be limited to, the following:

- Discussion of the terms and conditions of the Agreement
- Discussion of Critical Project Review (Task 1.2)
- Match fund documentation (Task 1.6) No work may be done until this documentation is in place.
- Permit documentation (Task 1.7)

The technical portion of the meeting shall include, but not be limited to, the following:

- The Commission Project Manager's expectations for accomplishing tasks described in the Scope of Work
- An updated Schedule of Products
- Discussion of Progress Reports (Task 1.4)
- Discussion of Technical Products (Product Guidelines located in Section 5 of the Terms and Conditions)
- Discussion of the Final Report (Task 1.5)

The Commission Project Manager shall designate the date and location of this meeting.

Recipient Products:

- Updated Schedule of Products
- Updated List of Match Funds
- Updated List of Permits

Commission Project Manager Product:

- Kick-Off Meeting Agenda

Task 1.2 Critical Project Review (CPR) Meetings

The goal of this task is to determine if the project should continue to receive Energy Commission funding to complete this Agreement and to identify any needed modifications to the tasks, products, schedule or budget.

CPRs provide the opportunity for frank discussions between the Energy Commission and the Recipient. CPRs generally take place at key, predetermined points in the Agreement, as determined by the Commission Project Manager and as shown in the Technical Task List above. However, the Commission Project Manager may schedule additional CPRs as necessary, and any additional costs will be borne by the Recipient.

Participants include the Commission Project Manager and the Recipient and may include the Commission Grants Officer, the Fuels and Transportation Division (FTD) team lead, other Energy Commission staff and Management as well as other individuals selected by the Commission Project Manager to provide support to the Energy Commission.

The Commission Project Manager shall:

- Determine the location, date, and time of each CPR meeting with the Recipient. These meetings generally take place at the Energy Commission, but they may take place at another location.
- Send the Recipient the agenda and a list of expected participants in advance of each CPR. If applicable, the agenda shall include a discussion on both match funding and permits.
- Conduct and make a record of each CPR meeting. One of the outcomes of this meeting will be a schedule for providing the written determination described below.
- Determine whether to continue the project based upon adherence to the Terms and Conditions of the contract. If continuing, determine whether or not modifications are needed to the tasks, schedule, products, and/or budget for the remainder of the Agreement. Modifications to the Agreement may require a formal amendment (please see the Terms and Conditions). If the Commission Project Manager concludes that satisfactory progress is not being made, this conclusion will be referred to the Energy Commission's Transportation Committee for its concurrence.
- Provide the Recipient with a written determination in accordance with the schedule. The written response may include a requirement for the Recipient to revise one or more product(s) that were included in the CPR.

The Recipient shall:

- Prepare a CPR Report for each CPR that discusses the progress of the Agreement toward achieving its goals and objectives. This report shall include recommendations and conclusions regarding continued work of the projects. This report shall be submitted along with any other products identified in this scope of work. The Recipient shall submit these

- documents to the Commission Project Manager and any other designated reviewers at least 15 working days in advance of each CPR meeting.
- Present the required information at each CPR meeting and participate in a discussion about the Agreement.

Commission Project Manager Products:

- Agenda and a list of expected participants
- Schedule for written determination
- Written determination

Recipient Product:

- CPR Report(s)

Task 1.3 Final Meeting

The goal of this task is to closeout this Agreement.

The Recipient shall:

- Meet with Energy Commission staff to present the findings, conclusions, and recommendations. The final meeting must be completed during the closeout of this Agreement.

This meeting will be attended by, at a minimum, the Recipient, the Commission Grants Office Officer, and the Commission Project Manager. The technical and administrative aspects of Agreement closeout will be discussed at the meeting, which may be two separate meetings at the discretion of the Commission Project Manager.

The technical portion of the meeting shall present an assessment of the degree to which project and task goals and objectives were achieved, findings, conclusions, recommended next steps (if any) for the Agreement, and recommendations for improvements. The Commission Project Manager will determine the appropriate meeting participants.

The administrative portion of the meeting shall be a discussion with the Commission Project Manager and the Grants Officer about the following Agreement closeout items:

- Energy Commission's request for specific "generated" data (not already provided in Agreement products)
- "Surviving" Agreement provisions, such as repayment provisions and confidential Products
- Final invoicing and release of retention
- Prepare a schedule for completing the closeout activities for this Agreement.

Products:

- Written documentation of meeting agreements
- Schedule for completing closeout activities

Task 1.4 Monthly Progress Reports

The goal of this task is to periodically verify that satisfactory and continued progress is made towards achieving the research objectives of this Agreement on time and within budget.

The objectives of this task are to summarize activities performed during the reporting period, to identify activities planned for the next reporting period, to identify issues that may affect performance and expenditures, and to form the basis for determining whether invoices are consistent with work performed.

The Recipient shall:

- Prepare a Monthly Progress Report which summarizes all Agreement activities conducted by the Recipient for the reporting period, including an assessment of the ability to complete the Agreement within the current budget and any anticipated cost overruns. Each progress report is due to the Commission Project Manager within 10 days of the end of the reporting period. The recommended specifications for each progress report are contained in the terms and conditions of this Agreement.

Product:

- Monthly Progress Reports

Task 1.5 Final Report

The goal of the Final Report is to assess the project's success in achieving its goals and objectives, advancing science and technology, and providing energy-related and other benefits to California.

The objectives of the Final Report are to clearly and completely describe the project's purpose, approach, activities performed, results, and advancements in science and technology; to present a public assessment of the success of the project as measured by the degree to which goals and objectives were achieved; to make insightful observations based on results obtained; to draw conclusions; and to make recommendations for further projects and improvements to the FTD project management processes.

The Final Report shall be a public document. If the Recipient has obtained confidential status from the Energy Commission and will be preparing a confidential version of the Final Report as well, the Recipient shall perform the following activities for both the public and confidential versions of the Final Report.

The Recipient shall:

- Prepare an Outline of the Final Report.
- Prepare a Final Report following the approved outline and the latest version of the Final Report guidelines which will be provided by the Commission Project Manager. The Commission Project Manager shall provide written comments on the Draft Final Report within fifteen (15) working days of receipt. The Final Report must be completed on or before the end of the Agreement Term.
- Submit one bound copy of the Final Report with the final invoice.

Task 1.6 Identify and Obtain Matching Funds

The goal of this task is to ensure that the match funds planned for this Agreement are obtained for and applied to this Agreement during the term of this Agreement.

The costs to obtain and document match fund commitments are not reimbursable through this Agreement. Although the Energy Commission budget for this task will be zero dollars, the Recipient may utilize match funds for this task. Match funds shall be spent concurrently or in advance of Energy Commission funds for each task during the term of this Agreement. Match funds must be identified in writing and the associated commitments obtained before the Recipient can incur any costs for which the Recipient will request reimbursement.

The Recipient shall:

- Prepare a letter documenting the match funding committed to this Agreement and submit it to the Commission Project Manager at least 2 working days prior to the kick-off meeting. If no match funds were part of the proposal that led to the Energy Commission awarding this Agreement and none have been identified at the time this Agreement starts, then state such in the letter. If match funds were a part of the proposal that led to the Energy Commission awarding this Agreement, then provide in the letter a list of the match funds that identifies the:
 - Amount of each cash match fund, its source, including a contact name, address and telephone number and the task(s) to which the match funds will be applied.
 - Amount of each in-kind contribution, a description, documented market or book value, and its source, including a contact name, address and telephone number and the task(s) to which the match funds will be applied. If the in-kind contribution is equipment or other tangible or real property, the Recipient shall identify its owner and provide a contact name, address and telephone number, and the address where the property is located.
- Provide a copy of the letter of commitment from an authorized representative of each source of cash match funding or in-kind contributions that these funds or contributions have been secured. For

match funds provided by a grant a copy of the executed grant shall be submitted in place of a letter of commitment.

- Discuss match funds and the implications to the Agreement if they are reduced or not obtained as committed, at the kick-off meeting. If applicable, match funds will be included as a line item in the progress reports and will be a topic at CPR meetings.
- Provide the appropriate information to the Commission Project Manager if during the course of the Agreement additional match funds are received.
- Notify the Commission Project Manager within 10 days if during the course of the Agreement existing match funds are reduced. Reduction in match funds must be approved through a formal amendment to the Agreement and may trigger an additional CPR.

Products:

- A letter regarding match funds or stating that no match funds are provided
- Copy(ies) of each match fund commitment letter(s) from DOE and from Ryder
- Letter(s) for new match funds (if applicable)
- Letter that match funds were reduced (if applicable)

Task 1.7 Identify and Obtain Required Permits

The goal of this task is to obtain all permits required for work completed under this Agreement in advance of the date they are needed to keep the Agreement schedule on track.

Permits must be identified in writing and obtained before the Recipient can make any expenditure for which a permit is required.

The Recipient shall:

- Prepare a letter documenting the permits required to conduct this Agreement and submit it to the Commission Project Manager at least 2 working days prior to the kick-off meeting. If there are no permits required at the start of this Agreement, then state such in the letter. If it is known at the beginning of the Agreement that permits will be required during the course of the Agreement, provide in the letter:
 - A list of the permits that identifies the:
 - Type of permit
 - Name, address and telephone number of the permitting jurisdictions
 - or lead agencies
 - The schedule the Recipient will follow in applying for and obtaining these permits.
- Discuss the list of permits and the schedule for obtaining them at the kick-off meeting and develop a timetable for submitting the updated list, schedule and the copies of the permits. The implications to the

Agreement if the permits are not obtained in a timely fashion or are denied will also be discussed. If applicable, permits will be included as a line item in the Progress Reports and will be a topic at CPR meetings.

- If during the course of the Agreement additional permits become necessary, provide the appropriate information on each permit and an updated schedule to the Commission Project Manager.
- As permits are obtained, send a copy of each approved permit to the Commission Project Manager.
- If during the course of the Agreement permits are not obtained on time or are denied, notify the Commission Project Manager within 5 working days. Either of these events may trigger an additional CPR.

Products:

- Letter documenting the permits or stating that no permits are required
- A copy of each approved permit (if applicable)
- Updated list of permits as they change during the term of the Agreement (if applicable)
- Updated schedule for acquiring permits as changes occur during the term of the Agreement (if applicable)

TECHNICAL TASKS

TASK 2 LNG/CNG Truck Order and Deployment

The goal of this task is to secure the purchase and deployment of 202 LNG/CNG trucks.

The Recipient shall:

- Issue a solicitation for the LNG trucks
- Place a purchase order for approximately 70 LNG/CNG trucks to be delivered in 2010.
- Place subsequent purchase orders for the remaining of the 202 LNG/CNG trucks by May 2011.
- Receive and deploy vehicles for in-state use.
- Prepare report including copy of purchase order, invoice and deployment report. The Deployment Report will include all vehicle Identification numbers, California registration number, license plate number, and proof of insurance. All of these must be viable for the term of the agreement.

Products:

- Purchase Order for LNG/CNG Trucks
- Invoice for LNG/CNG Trucks
- Deployment Report with Invoice

TASK 3 TRUCK DATA REPORTING

The goal of this task is to estimate the volume of diesel fuel displaced and LNG fuel used and GHG, NOx, and PM emissions reductions from each truck deployed.

The Recipient shall:

- Provide the number of trucks deployed on a monthly basis.
- Obtain the actual fuel usage and truck miles travelled on a bi-annual basis.
- Obtain number and type of problems that have occurred and number of trucks out of service and the reasons for their being out of service
- Estimate the volume of diesel fuel displaced and LNG fuel used and GHG, NOx, and PM emissions on a quarterly basis based on the actual number of LNG trucks deployed and mileage.
- Monitor the performance of trucks for a period of not less than 24 months after deployment using electronic monitoring unit or other methods including, but not limited to, daily manifest, California Highway Patrol inspection reports, maintenance records, or other documentation that is available to verify operation and location of operation.
- Submit a quarterly progress report to the Commission Project Manager including the total number of trucks deployed, the estimated volume of diesel fuel displaced and LNG fuel used, and GHG, NOx, and PM emissions reduction.

Products:

- Monthly Report

TASK 4: DATA COLLECTION and ANALYSIS

The goal of this task is to collect data on the economic benefits and local impacts of the project throughout the term of the project, analyze that data for project sustainability and include that analysis in the Final Report.

The analysis must:

- Describe how the project supports new technology advancement for vehicles, vessels, engines, and other equipment, and promote the deployment of such technologies in the marketplace. Describe any actual results, in terms of gasoline or diesel fuel displaced, or other appropriate metric. To the extent possible describe how the project, provided a measurable transition from the nearly exclusive use of petroleum fuels to a diverse portfolio of viable alternative fuels that meets California's petroleum reduction and alternative fuel use goals.
- Describe how the project incorporated and achieved the sustainability goals. Use a mix of quantitative and qualitative information, as appropriate to the

constraints of the project. Provide a quantified estimate of the project's carbon intensity values for life-cycle scale greenhouse gas emissions.

- Describe how the project provided economic benefits to California by promoting California-based technology firms, new job creation, new business development, economic benefit to low income communities, avoidance of disproportionate impacts to disadvantaged communities, and increased state revenue. Identify the jobs and economic development from this project.
- Describe how the project demonstrated the cost-effectiveness of the proposed technology in achieving greenhouse gas emissions reduction.

Summary Category Budget

Recipient: San Bernardino Associated Governments (SANBAG)

Project Title: SANBAG Low Emission LNG Local Goods Movement Truck Project

Budget Category	CEC Share	Match Share	Federal Share	Total Cost
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Personnel:

Direct Labor	0	0	45,272	45,272
Fringe Benefits	0	0	33,356	33,356
Total	0	0	78,628	78,628

Operating Expenses:

Materials / Supplies	0	0	0	0
Equipment	9,308,000	17,062,737	2,986,760	29,357,497
Travel	0	0	5,372	5,372
Miscellaneous	0	0	99,626	99,626
Subcontracts	0	0	6,780,322	6,780,322
Total	9,308,000	17,062,737	9,872,080	36,242,817

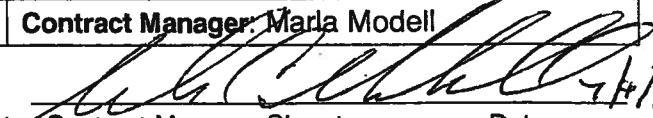


Overhead:

Indirect Overhead	0	0	0	0
G&A Overhead	0	0	0	0
Total	0	0	0	0

TOTAL COST	\$9,308,000	\$17,062,737	\$9,950,708	\$36,321,445
% of Total Cost	25.6%	47.0%	27.4%	100%

SANBAG Contract No. C10122
by and between San Bernardino Associated Governments and
Ryder Truck Rental, Incorporated
For the SANBAG Natural Gas Truck Project

FOR ACCOUNTING PURPOSES ONLY							
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # _____ Vendor ID <u>RSI2</u>			Retention: <input type="checkbox"/> Yes _____ % <input type="checkbox"/> No		<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amendment	
Original Contract: \$18,660,708			Previous Amendments \$ _____				
Contingency / Allowance Amount \$ _____			Current Amendment: \$ _____ Current Amendment Contingency / Allowance: \$ _____				
Contingency Amount requires specific authorization by Task Manager prior to release.							
Contract TOTAL ►						\$ 18,660,708	
* Funding sources remain as stated on this document unless and until amended by proper authority. Funding sources are those which are ultimately responsible for the expenditure. ▼ Include funding allocation for the original contract or the amendment							
Main Task/Project	Level 1	Level 2	Cost Code/Object	Grant ID/Supplement	Funding Sources/Fund Type (Measure I, STP, CMAQ, etc.)	Amounts for Contract Total or Current Amndmnt Amt	
GL 812	000	000	5553/52001	10118/22451	CEC State AB 118 Funds	\$9,308,000	
GL 812	000	000	5553/52001	81086/11751	DOE Federal ARRA Funds	\$9,352,708	
Original Board Approved Contract Date: 8/4/10				Contract Start: 8/4/10		Contract End: 12/22/13	
New Amend. Approval (Board) Date: _____				Amend. Start: _____		Amend. End: _____	
Allocate the Total Contract Amount or Current Amendment amount between Approved Budget Authority in the current year and Future Fiscal Year(s) Unbudgeted Obligation .							
Approved Budget Authority ►		Fiscal Year: FY 1011 \$ 14,000,000			Future Fiscal Year(s) – Unbudgeted Obligation		\$4,660,708
<input checked="" type="checkbox"/> Budget authority for this contract currently exists in Task No. <u>812</u> (C-Task may be used here.) <input type="checkbox"/> A budget amendment is required. A Budget Amendment Request is attached.							

CONTRACT MANAGEMENT			
Check all applicable boxes:			
<input type="checkbox"/> Intergovernmental	<input checked="" type="checkbox"/> Private	<input checked="" type="checkbox"/> Federal Funds	<input checked="" type="checkbox"/> State/Local Funds
<input type="checkbox"/> Disadvantaged Business Enterprise (DBE)		<input type="checkbox"/> Underutilized DBE (UDBE)	
Task Manager: Michelle Kirkhoff		Contract Manager: Marla Modell	
 Task Manager Signature		 Contract Manager Signature	
 Chief Financial Officer Signature		 Date	
Date: 7/9/10		Date: 7/12/10	

ATTACHMENT “D” SCOPE OF WORK (SOW)

SANBAG NATURAL GAS TRUCK Project

CONSTRUCTION, EQUIPMENT AND TRAINING PERFORMED BY RYDER

I. Tasks, Milestones and Deliverables

Task 1: Project Management and Planning (note, no Federal or State contribution to this task)

Objectives: Participate in the development and implementation of the project, in coordination with SANBAG and stakeholders. Provide input into the DOE and CEC contracts, as well as execute an agreement with SANBAG for the Ryder related project activities and expenditures. To accomplish this task, Ryder will:

1. Participate in conference calls and meetings with stakeholders and contractors, at the level and frequency necessary to meet project goals and objectives.
2. Review information and materials generated by stakeholders, contribute to meeting agendas and other materials, and if necessary, communicate project information internally to Ryder management as well as to Ryder contractors.
3. Provide input into Statement of Work (SOW) to be incorporated into DOE and CEC contracts, as well as be the basis for tasks and deliverables in the SANBAG/ Ryder Agreement.
4. Review and provide input into DOE and CEC contract, as well as contract attachments, including, but not limited to stakeholders' SOWs, budgets and other documentation required for contract execution with DOE and CEC, as well as SANBAG Sub Agreements.
5. Review the draft SANBAG/ Ryder Agreement, provide comments and execute contract.
6. Provide input into project management and reporting protocols.
7. Provide project results, expenditures, achievements and other reporting requirements and provide in monthly/quarterly report formats as required by DOE, CEC and SANBAG.

Milestones:

- 1.1: SANBAG/Ryder Agreement is executed.

Deliverables:

1. Review and provide comments to all management materials, agendas and action item summaries.
2. Provide comments/changes to SANBAG, regarding DOE, CEC and SANBAG initial contract execution as well as any subsequent amendments, attachments, SOWs, budgets and other materials attached and/or incorporated into the DOE, CEC and SANBAG/ Ryder contracts.
3. Provide DOE reports and other deliverables, in accordance with the Federal Assistance Reporting Checklist following the instructions included therein. DOE reports will include, at a minimum:
 - a. Quarterly Financial Status Reports
 - b. Quarterly Federal Cash Transaction Reports
 - c. Quarterly Project Status Reports
 - d. Annual Project Status Reports
4. Quarterly project results, issues, expenditures, invoices, demonstration of co-funding requirements, achievements and other reporting requirements that will be placed into the quarterly, annual and final report formats as required by DOE, CEC and SANBAG.

Task 2: Vehicle Deployment

Objectives: Ryder will deploy approximately 202 natural gas (NG) powered trucks that meet the company's operational needs and the grant contracting requirements. To accomplish this task Ryder will:

1. Coordinate communications and procurement with stakeholders, Original Equipment Manufacturers (OEMs), engine manufacturers, NG tank providers and upfitters as required to accomplish task and to fulfill DOE and CEC requirements.
2. Upon CEC, DOE and SANBAG contract execution, execute a purchase order for approximately 70 NG powered trucks (Phase I), which meet all SANBAG, DOE and CEC contractual requirements. Delivery and deployment of Phase I trucks within 180 days of executing purchase order.
3. Provide a list of truck deployment locations, to SANBAG, with the intent that Ryder NG trucks utilizing the San Bernardino BNSF railyard is a priority.
4. With GNA/SANBAG input, identify locations at which Ryder trucks will fuel at offsite facilities and develop agreements/payment mechanisms with those providers.
5. Vehicles/engines purchased in Phase II, will comply with all CARB/EPA/DOT vehicle certification requirements, as well as minimum benefits and goals as outlined in original proposal to DOE/CEC.
6. Execute purchase order for balance of the 102 NG trucks by no later than April 1, 2011.
7. Deploy, accept, place into operations, and provide invoices of payments to SANBAG, for 202 trucks by no later than December 1, 2011;
8. Develop placard for NG vehicles, which states the vehicle is part of a US DOE Clean Cities Award and powered by alternative fuel.
9. With GNA assistance, identify locations at which Ryder trucks will fuel at offsite facilities until on site infrastructure is operational, including the develop of usage agreements/payment mechanisms with those providers.

Milestones

- | | |
|------|---|
| 2.01 | Upon CEC, DOE and SANBAG contract execution, execute a purchase order for 70 NG powered trucks (Phase I). |
| 2.02 | By month 11 of the contract period, execute purchase order for 102 NG trucks. |
| 2.1 | 50 vehicles deployed (25%) |
| 2.2 | 100 vehicles deployed (50%) |
| 2.3 | 150 vehicles deployed (75%) |
| 2.4 | 202 vehicles deployed (100%) |
| 2.5 | 202 vehicles have placards installed (100%) |

Deliverables

1. Final placard for review/approval of DOE (draft placard to be created and printed by SANBAG subcontractor).
2. Summary communications to vendors and specification reviews/analysis.
2. Copy of purchase for Phase I 70 NG trucks, to be issued upon execution of DOE/CEC funding agreements, and the SANBAG/ Ryder Agreement.
3. Copy of purchase for Phase II remaining NG trucks, to be issued by no later than April 1, 2011.
4. List of locations and providers, of where vehicles will temporarily fuel prior to fueling infrastructure operational.

Task 3: Infrastructure Development and Construction

Objectives: Ryder will develop and construct two (2) fueling stations meeting the requirements of the Grants² as well as make improvements to their facilities to accommodate NG vehicles. To accomplish this task, Ryder will:

1. Review site plans and layouts developed by GNA, provide input and final approval.
2. Should environmental analysis be required, (CEQA and/or NEPA) provide input, documentation, allow site access and other measures/materials in order to complete environmental process and attain the necessary environmental clearance (documentation and input will also be provided by GNA and SANBAG; actual environmental clearance and final submittals to DOE/CEC will be provided by SANBAG or DOE - Consultants TBD, final approval for submittal by Ryder).
3. Provide operational input to GNA and review fueling infrastructure and facilities modifications RFPs and specifications, assuring that Ryder, SANBAG, CEC and DOE contracting requirements have been incorporated into the final RFP (draft RFPs compiled by GNA and final approval by Ryder).
4. Approve and work with GNA to release RFPs for two fueling stations and on site facility modifications;
5. Review list of potential bidders, RFPs' schedules and provide input into websites/other outreach by which to publicize the RFPs. Participate in bid walk at the proposed locations, and provide answers to vendor questions to stakeholders which will be incorporated into a formal RFPs addendums (bidder list, schedule, outreach, bidder's conference, RFP amendment drafts to be generated by GNA; final products approved by Ryder).
6. Review and score submitted proposals and interview bidders with input from stakeholders. Recommendation will be provided to DOE and CEC for review/approval, if required (scoring summaries and bidder interview documentation provided by GNA; if DOE/CEC approval of selection, submitted by SANBAG).
7. Execute an agreement to the proposing firms (Contractors) which meets the RFPs' criteria (draft agreements reviewed by GNA/SANBAG).
8. Work with GNA to coordinate final design with contractor and stakeholders.
9. With GNA/SANBAG input, receive, review, and comment upon design submittals including: drawings, material selection, and equipment selection.
10. Coordinate permitting process with contractors, with GNA/SANBAG assistance/
11. Conduct construction progress meetings (usually bi-weekly depending upon contractor's requirements; GNA to also participate in ongoing construction meetings).
12. Manage contractors and notify stakeholders of any additional submittals as well as change order submittals/
13. With GNA's assistance, inspect and evaluate construction progress in accordance with plans, codes, and specifications as well as CEC/DOE requirements. This usually occurs in conjunction with the on-site meetings (bi-weekly).
14. Seek GNA/SANBAG assistance for any technical assistance or input as needed.
15. Provide input and approve acceptance test criteria based on project and contract specifications (provided by GNA).
16. Develop appropriate signage on and off site that complies with required federal, state and local fuel dispensing information, including, but not limited to fuel contents, safety precautions, etc. (consulting with GNA/SANBAG). Install signage.
17. Develop signage on site that states it is part of a US DOE Clean Cities Award (consulting with GNA/SANBAG; SANBAG to submit to DOE draft signage for approval). Install signage.

18. Commission the fueling stations and facility modifications, 18 to 24 months from obligation of DOE funds.
19. Oversee fueling station facility tests with contractor and stakeholders to confirm compliance with acceptance test criteria.
20. Draft acceptance test report provided by GNA; review and approval final report.
21. With GNA assistance, develop and distribute an LNG fuel supply RFP; issue RFP, select a vendor and execute an agreement with the selected qualified fuel supplier.

Milestones

- | | |
|-----|---|
| 3.0 | Two fueling station locations are final. |
| 3.1 | 25% of CEQA/NEPA compliant infrastructure deployed and dispensing fuel |
| 3.2 | 50% of CEQA/NEPA compliant infrastructure deployed and dispensing fuel |
| 3.3 | 75% of CEQA/NEPA compliant infrastructure deployed and dispensing fuel |
| 3.4 | 100% of CEQA/NEPA compliant infrastructure deployed and dispensing fuel |
| 3.5 | 100% of signs are installed. |
| 3.6 | Contract executed with LNG fuel supplier. |

Deliverables

1. Should amendments to SANBAG, DOE and CEC agreements be required, for any reason, provide updates to contract documents/SOW as required by DOE/CEC (actual submittals by SANBAG).
2. Documents submitted to DOE and/or CEC, necessary to make a NEPA/CEQA determination (with assistance from GNA/SANBAG).
3. Should NEPA/CEQA studies/assessments be required, any necessary documents to complete that assessment. (lead under DOE or SANBAG contract, TBD)
4. Final site plan and layout.
5. Final fueling station RFP(s) and site modification RFP(s).
6. Comments and final approval of RFP related materials, including list of potential fueling station vendors, outreach to publicize RFP, bidders' conference agenda and materials, responses to questions asked as a result of RFP and bidders' conference, and amendments to RFP (as required) (draft documents generated by GNA).
7. Upon contract execution and until commissioning/final acceptance testing, monthly report of contractor progress, issues, change orders, budget variances and other information critical to implementing the project.
8. Review and approval of acceptance test criteria drafted by GNA, and create final acceptance test report.

Task 4: Training Development and Delivery

Objectives: Ryder will train all vehicle operators, mechanics and other personnel that are involved in the project implementation. To accomplish this task, Ryder will:

1. Identify NG specific training needs of vehicle operators, vehicle technicians, vehicle staff, refueling site supervisors, refueling site staff, and individuals who will use refueling infrastructure.
2. Develop comprehensive training programs to address needs identified in task above. Training will be provided by truck manufacturer, engine company, fuel tank supplier, and other key NG component and fuel suppliers.

3. Implement training programs for drivers, maintenance technicians, fuelers, and other company personnel in order that everyone involved in the project is trained in the safe and proper handling of NG vehicle fuel in this fleet application.
4. Perform on-going identification of additional training needs and hold follow-up training, as necessary.

Milestones

- 4.1 50% of training to applicable audiences completed
- 4.2 100% of training to applicable audiences completed

Deliverables

1. NG training implementation plan.
2. Quarterly progress reports on training development and implementation.
3. All training materials developed during the course of completing this task, will be provided to SANBAG in an electronic format (Microsoft Word or Adobe format).

Task 5 – Marketing (note, no Federal or State contribution to this task)

Objectives: Ryder will provide input into project marketing and outreach campaign to educate the community, retailers, heavy-duty truck and engine manufacturers, alternative fuel industry, government officials, and other important stakeholders about the economic, job creation, energy, and air quality benefits of the project as well as the increased NG fueling opportunities. To accomplish these tasks, Ryder will:

1. Identify Ryder messaging/outreach tactics to be incorporated into the messaging and ultimate marketing plan.
2. Provide input into statistics/information (generated by GNA and SCAG), that will be used by project partners on project messaging.
3. Identify project supporters such as Ryder's retail customers and other parties that can partner in the marketing and distribution of project messaging and materials.
4. Provide feedback on target outreach lists that include community, retailers, heavy-duty truck and engine manufacturers, alternative fuel industry, government officials, media and other important stakeholders (lists generated by GNA and SCAG).
5. Incorporate project messaging into current and future outreach channels conducted by Ryder during its normal course of business, including, but not limited to internal or external newsletters, print/radio/electronic media opportunities, social media, trade publications, conferences, workshops, press releases, announcements and website.
6. Participate and provide input into promotional events and ribbon cuttings (lead will be GNA).
7. Make presentations at conferences and trade shows (power points developed by GNA).
8. Provide input into the organization and implementation of training sessions for first responders, public safety officers, and construction permitting officials to provide first-hand information on successes, pitfalls and safety measures in implementing this project.
9. Provide input into the education sessions with other fleet operators on training and education related to NG trucks, fueling infrastructure, and project success factors.
10. Participate and provide input into media events and ribbon-cutting ceremony to commemorate the implementation of the two NG fuel station infrastructure projects and deployment of 202 NG trucks.

Milestones

5.1 Ribbon Cutting Ceremony within 12 weeks of NG fuel station completion and acceptance by Ryder.

Deliverables

1. List of Ryder customers, project supporters and interested parties, for outreach purposes.
2. Comments on outreach materials, media pieces, FAQ sheets, presentations and other printed/written documents used to promote the project and educate stakeholders and the public.
3. Any marketing materials developed by Ryder or distributed by Ryder, during the completion of this task will be provided in an electronic format to SANBAG (Microsoft Word or Adobe format)

Task 6 – Documentation and Reporting (note, no Federal or State contribution to this task)

Objectives: Ryder will report to SANBAG on implementation activities, upon complete project implementation and until contract completion (which is scheduled to be during months 24 through 48 of the contract period). All reports will be provided to SANBAG for inclusion in CEC and DOE invoicing and reporting. To accomplish these tasks, Ryder will:

1. Monitor performance of vehicles for a period of 24 months after deployment of vehicles identified in Task 2. Documentation of relevant data, as required by DOE, CEC and SANBAG.
2. Monitor performance of fueling infrastructure for a period of 24 months after fueling infrastructure is operational as outlined in Task 3. Documentation of relevant data, as required by DOE, CEC and SANBAG.
3. Documentation of all training provided post implementation, attendance at training session(s) and evaluation of training success.
4. Documentation of all marketing/outreach conducted/disseminated by Ryder post implementation.
5. Annual reporting of fleet data to SANBAG and SCAG for inclusion in the DOE Annual Survey and Clean Cities Reports.
6. Should SANBAG be required to participate in DOE- or Industry-sponsored merit reviews, peer exchanges, conferences, etc., Ryder will provide to SANBAG project updates/lessons learned to ensure that the information and knowledge gained by project participants is shared.
7. Quarterly reporting of ARRA requirements.

Milestones: None

Deliverables:

1. Reports and other DOE deliverables will be provided in accordance with the Federal Assistance Reporting Checklist following the instructions included therein. Reports will include, at a minimum:
 - a. Quarterly Financial Status Reports
 - b. Quarterly Federal Cash Transaction Reports
 - c. Quarterly Project Status Reports
 - d. Annual Project Status Reports
2. Continued quarterly project results, issues, statistics on deployment, achievements and other reporting requirements that will be placed into the quarterly, annual and final report formats as required by DOE, CEC and SANBAG.
3. Should there continue to be DOE, CEC and/or Ryder co funding expenditures during the period of 24 to 48 months of the contact term, or until contract completion, Ryder will provide those invoices, expenditure and co-funding documentation in the quarterly reports.

II. Budget

To accomplish these goals, the effort involving Ryder portion of this project will total \$36,321,445, of which DOE will contribute \$9,352,708, CEC will contribute \$9,308,000 and Ryder will contribute \$17,062,737.

Category	DOE	CEC	Ryder	Total
Equipment-Vehicles and Engines	\$2,986,760	\$9,308,000	\$17,062,737	\$29,357,497
Contractual - Fueling Stations	\$5,036,656			\$5,036,656
Contractual – Facilities	\$1,229,666			\$1,229,666
Contractual – Training	\$99,626			\$99,626
Totals	\$9,352,708	\$9,308,000	\$17,062,737	\$36,321,445

Attachment "E"

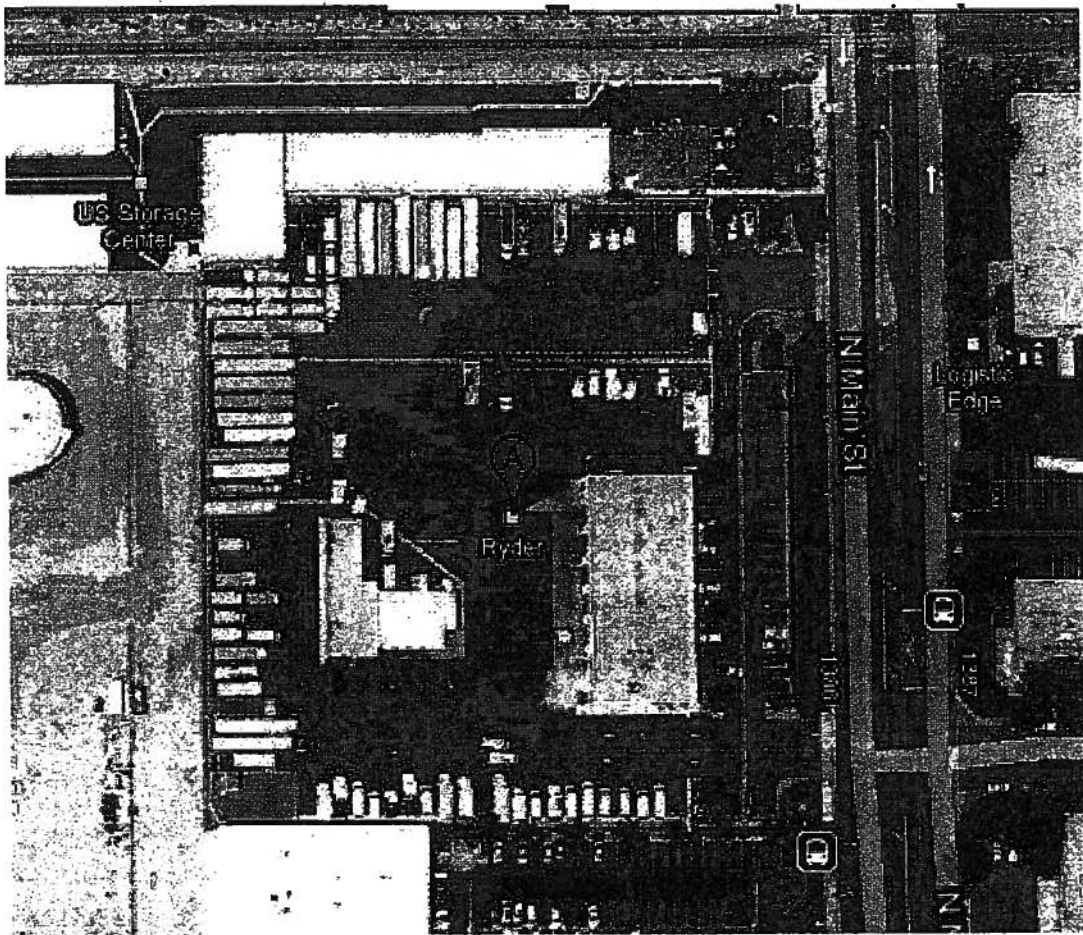
Natural Gas Fuel Station Locations

Orange LNG/Liquid to Compressed Natural Gas (LCNG) Fueling Facility

Ryder will design and construct the Orange LNG/LCNG Fueling Facility to store and dispense LNG and LCNG. The proposed fueling station will be installed at Ryder's existing commercial trucking yard located at 1440 North Main Street in the City of Orange, north of the intersection of West Katella Street and North Main Street.

The project area is located in the midst of Orange's Industrial Manufacturing District. Ryder's project site is bounded on the north and south by large industrial buildings and to the west by the Kinder Morgan Orange Terminal. The closest residential zoning is located east approximately .66 miles. Otherwise, the surrounding area is an industrial setting with building design and traffic patterns to accommodate goods movement transportation.

Ryder's Orange commercial truck yard is located on an industrial lot which is currently improved with an office, diesel refueling facility and shop. The remainder of the lot is paved and used for trailer parking, staging and truck parking.



Rancho Cucamonga LNG/Liquid to Compressed Natural Gas (LCNG) Fueling Facility

Ryder will design and construct the Rancho Cucamonga LNG/LCNG Fueling Facility to store and dispense LNG and LCNG. The proposed fueling station will be installed at Ryder's existing commercial trucking yard located at 9608 Santa Anita Avenue, in the City of Rancho Cucamonga, north of the intersection of Santa Anita Avenue and 4th Street.

The project area centrally located in San Bernardino's General Industrial zone. Ryder's project site is bounded on the north and south by large industrial buildings and to the west by the existing Ryder commercial truck yard. The closest residential zoning is located northeast approximately 1.89 miles. The immediately surrounding area is an industrial setting with building design and traffic patterns to accommodate commercial heavy-duty trucks.

Ryder's Rancho Cucamonga commercial truck yard is located on 4.22 acres which is currently improved with an office, diesel refueling facility and shop. The remainder of the lot is paved and used for trailer parking, staging and truck parking.



Minute Action

AGENDA ITEM: 8

Date: August 4, 2010

Subject: State and Federal Legislative Update and Bills of Interest

Recommendation:

1. Receive and file State and Federal Update;
2. Adopt positions on bills of interest:
 - a. Monitor SB 474 (Ducheny)
 - b. Monitor AB 2620 (Eng)
 - c. Oppose AB 1955 (De La Torre)
 - d. Support S. 322 (Schumer) / H.R. 891 (McGovern)
 - e. Support prospective Metrolink-sponsored legislation for PTC funding

Background: State & Federal General Update

To the surprise of no one, the State Legislature has gone home for summer recess without passing a budget. Despite the convening of a Budget Conference Committee, both parties apparently remain very far apart on a deal. San Bernardino County delegation members Senator Bob Dutton and Senator Bob Huff are members of the Conference Committee.

In the way of good news from Sacramento, last month SANBAG received a substantial victory when the California Transportation Commission (CTC) selected the I-15/I-215 Devore Interchange as one of 10 projects statewide that Caltrans can construct using a streamlined project delivery method known as design-build. SB X2 4 created a pilot program in the 2009 budget deal that allows

*Approved
Board of Directors*

Date: _____

Moved: _____ Second: _____

In Favor: _____ Opposed: _____ Abstained: _____

Witnessed: _____

X	COG	X	CTC		CTA		SAFE		CMA
---	-----	---	-----	--	-----	--	------	--	-----

Check all that apply
 BRD1008a-ah

Caltrans to use design-build on up to 15 transportation projects statewide. Proceeding with the design-build method and designating Caltrans as the lead agency underscores the successful working relationship between Caltrans and SANBAG. Both public and private agencies will be utilized on the project and construction could start up to seventeen months sooner utilizing the design-build approach. At the same meeting, the CTC approved a \$118 million allocation of State Highway Operation and Protection Program (SHOPP) funds for the project. This action honors the agreement the SANBAG Board of Directors made during negotiations for Colton Crossing.

In Washington, news has been slow regarding the next federal surface transportation authorization bill. Prospects continue to dim for a bill in early 2011, leaving many to speculate that passing a long-term bill may actually be a long-term problem – as in after the 2012 Presidential election. Raising revenue to pay for the investments needed in a new bill and weariness of deficit spending offer virtually no politically attractive options on the table.

In the meantime, there has been a bit of forward motion on the FY 2011 appropriations process. Two weeks ago, the House Appropriations Subcommittee on Transportation, Housing, and Urban Development (THUD) reported out its FY 2011 bill. San Bernardino County fared well, considering that earmarks have been sharply reduced, mainly due to House Republicans' moratorium on earmarks. All earmarks in the bill for San Bernardino County are sponsored by Representative Joe Baca:

- \$42.63 million of Small Starts funding for sbX Bus Rapid Transit (also sponsored by the President);
- \$500,000 for the City of San Bernardino Intermodal Transit Center; and
- \$700,000 for City of Rialto Metrolink Parking Lot Improvements.

These funds are far from the finish line, however. The House THUD bill must pass the full Appropriations Committee and the House floor, as well as the Senate THUD subcommittee and Senate floor – and finally, Conference Committee. It is not expected that Congress will act with haste until later this fall, possibly near or after the general election.

Legislation of Interest

SB 474 (Ducheny) – Monitor

This bill requires a lead agency for a design-build or public-private partnership (P3) project to make a finding regarding the public benefits of using an alternative delivery or financing method. The finding must discuss benefits relating to an accelerated project completion date, cost savings to the agency and traveling public, and attracting additional financial resources that would not otherwise be available. Such a finding must be made within 90 days of awarding a design-build or P3 contract. The bill requires the CTC to develop a uniform methodology to determine the benefits of alternative delivery and financing methods for each project and provide an annual report to the Legislature on the progress of projects and the benefits they achieve. SB 474 is sponsored by Professional Engineers in California Government (PECG).

SB 474 could have potential impacts on the Devore Interchange project and the High Desert Corridor. SANBAG staff recommends that the Board be supportive of the concept of evaluating new pilot programs and measuring public benefits of innovative contracting and financing. However, SB 474 as written may induce unnecessary additional reporting, delays, costly litigation, and prematurely narrow the field of potential benefits that may be reaped from using design-build or P3's.

According to the language of SB 474, "the purpose of requiring the finding is solely to assist the public and the Legislature in evaluating the effectiveness of...alternative methods [of delivery and financing]...in order to determine the extent to which those alternative methods may or may not be authorized for future pilot programs." However, the adoption of a finding could create a legal "hook" for opponents of design-build and P3's to initiate litigation if benefits of a project do not match expectations. The bill also assumes that the CTC can create a "one size fits all" methodology for projects that inherently are more unique and complex than projects that use traditional design-bid-build and public financing. Creating a methodology may take an extensive amount of time, and could delay projects waiting to be measured against the new methodology.

SANBAG staff understands that amendments may be in the works to change the "finding" to a simple resolution of the Board. Staff and legal counsel will monitor the amendments and recommend a position to the Board based on the final contents of those amendments and their impacts to SANBAG projects.

AB 2620 (Eng) – Monitor

This bill is sponsored by the Professional Engineers in California Government (PECG). In its original form, AB 2620 would have earmarked 15% of toll revenues from any toll project authorized after this year for State Highway Operation and Protection program (SHOPP) projects in the corridor of the toll facility. The bill would have diminished local control of local revenues (tolls) and diverted money to the State, creating barriers to financing new toll projects in California. After several narrow votes, the bill was amended for a new purpose.

AB 2620 now addresses overhead costs charged by Caltrans to local agencies such as SANBAG for reimbursed work on locally-funded projects. When Caltrans performs work for a local agency such as SANBAG, SANBAG must reimburse Caltrans for the cost of staff salaries and benefits, space, and equipment needed to perform that work. In addition, Caltrans charges an indirect cost rate to pay for the overhead costs all of Caltrans' operations. If Caltrans did not charge this rate, additional funding from the State Highway Account would be needed to fund the Department's overhead costs and to reimburse the U.S. Department of Transportation for the overhead costs charged to Caltrans for projects using federal funds.

This bill would prohibit Caltrans from charging local agencies such as SANBAG for indirect costs. The intent of the bill is to reduce the cost to local agencies of doing business with the State. In turn, this could make Caltrans more competitive when agencies such as SANBAG are deciding whether to use private consultants or Caltrans for locally-funded projects. However, the bill is likely to face opposition from the Administration, as the bill would essentially provide a State-funded subsidy to local agencies and place additional pressure on the State Highway Account.

AB 2620 is in its second house and awaits a vote in the Senate Appropriations Committee. If the bill passes Senate Appropriations, it would head to the Senate Floor and then back to the Assembly Floor for a concurrence vote before going to the Governor's desk. SANBAG staff recommends a "Monitor" position for two reasons: (1) the bill in its current form could have impact to the cost of SANBAG projects, and (2) AB 2620 has already been subject to a "gut and amend" once, and may yet morph again in the heat of budget negotiations and the end of the regular legislative session.

AB 1955 (De La Torre): Incompatible offices – Oppose

Although this bill has died in Senate Local Government Committee last month, acting under the Board-adopted State Legislative Platform, SANBAG staff has recently lobbied against this legislation with a commitment to bring the bill to the attention of the Board.

The bill added new circumstances that would create incompatible public offices. The manner in which the bill was written could have been interpreted in a way that would disqualify all SANBAG and transit agency board members from their original City Council or Supervisorial seats. The bill would have deemed that no official can sit on two governing bodies that have the power of eminent domain or the power to set rates or fees in an overlapping geographic area. While SANBAG staff recommends the Board be supportive of efforts to prevent conflicts of interest among public officials, AB 1955 created potentially far reaching collateral consequences.

AB 1955 was opposed by the League of California Cities, the California State Association of Counties, several water districts, South Coast Air Quality Management District, and several other transportation commissions. While staff is confident that the author did not intend to create additional legal risk for entities such as SANBAG, until such time that the bill is amended to remove legal ambiguity currently written in the bill, staff recommends an oppose position on AB 1955. However, the bill's death means that the SANBAG's Board's action to oppose will establish a policy precedent in the event that a similar such bill emerges later this Legislative session. In the opinion of staff, taking such a position will not compromise SANBAG's commitment to maintaining public trust and the highest standard of professional ethics.

S. 322 (Schumer) / H.R. 891 (McGovern) – Support

The American Recovery and Reinvestment Act (ARRA) created temporary parity between the pre-tax benefits employers can provide for parking and for transit passes. Previously, employers could provide up to \$175 per month to each employee in tax-free parking subsidies, but only \$100 per month for transit passes. As an incentive to encourage the use of transit, ARRA raised the allowable transit and parking subsidy to \$230 per month through December 31, 2010. The companion bills H.R. 891 and S. 322 would make permanent this equity between parking and transit subsidies from employers, and

tie the subsidy limit to inflation. Neither bill has received a hearing; it may be possible that these provisions are worked into a tax extenders package that Congress may pass soon. The bills have been supported by many transit operators throughout the country. SANBAG staff recommends support for both companion bills.

Prospective Legislation: Metrolink Positive Train Control funding

Legislation may be necessary to ensure the timely award of a contract by the Southern California Regional Rail Authority (SCRRA) for the implementation of Positive Train Control (PTC). Metrolink and its member agencies are mandated by federal law to install PTC by 2015 and have committed to an accelerated schedule that will see implementation as early as 2012.

Caltrans has recommended that the CTC approve \$46,550,000 in Proposition 1A high-speed rail bond funds for Metrolink PTC. Before Metrolink can award a contract for PTC implementation, these funds must be allocated by CTC. However, CTC has deferred action out of concern that absent a state budget or the sale of Prop. 1A bonds by the Treasurer, there is no money to allocate.

Given the need to proceed with implementation of PTC expeditiously, Metrolink member agencies are working together in Sacramento to work out a solution that will allow the CTC to allocate Prop. 1A funds so that Metrolink can proceed with its procurement. A solution may include special legislation regarding a "Letter of No Prejudice" (LONP) which allows local agencies to bear the financial risk of moving forward with a project before State funds are allocated. Such a policy would be consistent with the Proposition 1B bond program and other State funds.

PTC funding is a matter of safety for all Metrolink riders. Implementation of this critical safety technology cannot be delayed. SANBAG staff recommends the Board adopt, in concept, a supportive position on all legislative and administrative efforts to allocate Prop. 1A funds for Metrolink PTC in an expedited manner.

Financial Impact: This item has no direct impact on the adopted budget.

Reviewed By: This item was unanimously received by the Administrative Committee on July 14, 2010.

Responsible Staff: Aaron Hake, Director of Legislative Affairs

BRD1008a-ah

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 9

Date: August 4, 2010

Subject: Amendment to Contract with Best, Best & Krieger LLP

Recommendation:* Approve Amendment No. 8 to Contract No. 05-016 with Best, Best & Krieger (BB&K), Attorneys at Law, to provide legal counsel for the Colonies Lawsuit and the Cactus Basin Flood Control Channel lawsuit in the amount of \$900,000 for a total contract amount of \$3,525,000.

Background: This is an amendment to an existing contract with the firm Best, Best & Krieger (BB&K) to provide legal services related to a lawsuit involving various public entities relative to the acquisition of right of way for the State Route 210 (SR-210) Freeway Project, commonly referred to as the Colonies lawsuit and the Cactus Basin lawsuit.

On August 4, 2004, the Board of Directors authorized Agreement No. 05-016 with the BB&K to provide legal counsel representation of the Colonies lawsuit for an amount of \$350,000.

On February 1, 2008, SANBAG was served with litigation by the San Bernardino County Flood Control District related to the Cactus Basin Flood Control Channel located within the City of Rialto. To provide consistency between the two separate, but related lawsuits, the Board amended BB&K's contract in April 2008 to include legal counsel representation for the Cactus Basin Flood Control Channel lawsuit.

*

Approved
Board of Directors

Date: _____

Moved: _____ *Second:* _____

In Favor: _____ *Opposed:* _____ *Abstained:* _____

Witnessed: _____

<input type="checkbox"/>	COG	<input type="checkbox"/>	CTC	<input type="checkbox"/>	CTA	<input type="checkbox"/>	SAFE	<input type="checkbox"/>	CMA
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Check all that apply

BRD1008f-gc

Attachment: C05016-08

The contract has been amended a total of seven times bringing the existing contract total to \$2,625,000. Significant effort has gone into defending these lawsuits. Effort has included reviewing the complaints, gathering documents, preparing and filing the demurrers, preparing and filing the cross-complaint, document review and production, discovery, and conducting depositions.

An amendment of \$900,000 to BB&K's contract is requested to cover on-going legal costs and significant third party expert and consultant expenses to defend the cases. It is impossible to predict, with any certainty, the future expenditures required to defend these two lawsuits. It is dependent on the rulings issued by the courts and the nature of the litigation. The Colonies case is slated to go to trial in the spring of 2011. A lot of work needs to be accomplished in the remaining months before the trial. The Cactus case, with a trial date in September 2011, is currently in the discovery and document review phase of the trial. This amendment will allow BB&K to continue to defend this case without interruption.

Financial Impact: The amendment to this Contract is consistent with the adopted budget. Funding for the amendment is provided under Project No. 822, SR-210 Right Of Way Acquisition. The funding source is Measure I Major Projects. SANBAG's insurance company is covering the legal costs of the Colonies and Cactus Basin lawsuits, therefore will reimburse SANBAG for most of the legal counsel expenditures.

Reviewed By: This item was reviewed and recommended for approval by the Legal Ad Hoc Committee on July 26, 2010.

Responsible Staff: Garry Cohoe, Director of Project Delivery

SANBAG Contract No. C05016-08
by and between San Bernardino Associated Governments
and
Best, Best and Krieger
for Legal Services

FOR ACCOUNTING PURPOSES ONLY

<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # _____ Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment
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Notes:

Original Contract: \$ 75,000	Previous Amendments \$ 2,550,000 Previous Amendments \$ 0 Contingency / Allowance Total:
Contingency / Allowance Amount \$ 0	Current Amendment: \$ 900,000 Current Amendment Contingency / Allowance: \$ 0

Contingency Amount requires specific authorization by Task Manager prior to release.

Contract TOTAL ► \$ 3,525,000

* Funding sources remain as stated on this document unless and until amended by proper authority. Funding sources are those which are ultimately responsible for the expenditure.
 ▼ Include funding allocation for the original contract or the amendment

Main Task/Project	Level 1	Level 2	Cost Code/Object	Grant ID/Supplement	Funding Sources/ Fund Type (Measure I, STP, CMAQ, etc.)	Amounts for Contract Total or Current Amndmnt Amt
0822	640	000	52001	4110000	MSI – Major Projects	\$ 900,000
_____	_____	_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	_____	_____	\$ _____

Original Board Approved Contract Date:	8/4/04	Contract Start: 8/4/04	Contract End: Open
New Amend. Approval (Board) Date:	8/4/10	Amend. Start: 8/4/10	Amend. End: Open

Allocate the Total Contract Amount or Current Amendment amount between Approved Budget Authority in the current year and Future Fiscal Year(s) Unbudgeted Obligation.

Approved Budget Authority ►	Fiscal Year: 10/11 \$ 900,000	Future Fiscal Year(s) – Unbudgeted Obligation ►	\$ 0
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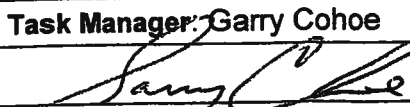
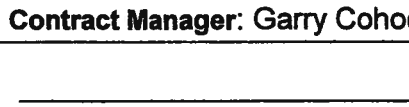

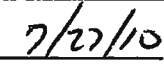
☒ Budget authority for this contract currently exists in Task No. 8220 (C-Task may be used here.).
☐ A budget amendment is required. A Budget Amendment Request is attached.

CONTRACT MANAGEMENT

Check all applicable boxes:

<input type="checkbox"/> Intergovernmental	<input checked="" type="checkbox"/> Private	<input type="checkbox"/> Federal Funds	<input type="checkbox"/> State/Local Funds
<input type="checkbox"/> Disadvantaged Business Enterprise (DBE)	<input type="checkbox"/> Underutilized DBE (UDBE)		

Task Manager: Garry Cohoe	Contract Manager: Garry Cohoe
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 Task Manager Signature	 Contract Manager Signature
 Chief Financial Officer Signature	 Date

BEST BEST & KRIEGER

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July 27, 2010

Mayor Morris
c/o Garry Cohoe
San Bernardino Associated Governments
1170 West Third Street, 2nd Floor
San Bernardino, CA 92410-1715

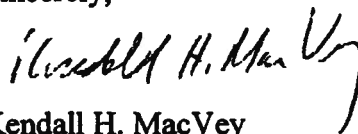
Re: Amendment No. 8 to Legal Services Agreement (SANBAG Contract No. 05016)

Dear Mayor Morris:

As we discussed with the SANBAG ad hoc legal committee on July 26, 2010, Best Best & Krieger LLP is requesting that our contract be increased to a total of \$3,525,000 for the continued defense of the Colonies and Cactus Basin suits brought against SANBAG. All other provisions of the original contract retainer agreement shall remain in full force and effect.

If this letter meets with your approval, please sign and date it, and return the original to us. Thanks for your consideration on this matter. Please call me with any questions.

Sincerely,



Kendall H. MacVey
of BEST BEST & KRIEGER LLP

KHM:faw

AGREED AND ACCEPTED

By: _____
Brad Mitselfelt

Date: _____